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CODE OF LAWS

OF

South Carolina,

1912.

IN TWO VOLUMES.

VOLUME I.

The Civil Code.

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PART I.

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TITLE I.

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 2. Seven acres of land on North Island, Georgetown County.

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3. Fort Moultrie, on Sullivan's Island, Charleston County.
4. Fort Johnston, Charleston County.
5. Fort Pinckney, Charleston County.
6. Sand-bank, on Southeast Point of Charleston.
7. Ten acres on Blythe's Point, Sampit River, in Georgetown County.

A. D. 1912.

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8. Mustard Island, and seven acres on St. Helena Island, Beaufort County.
9. Five acres in Beaufort, Beaufort County.
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12. One acre on Otter Island, Colleton County; one acre on Station Creek, and one acre on Bob's Island, Beaufort County.
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45. Certain lands in Town of Moultrieville, Charleston County.
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10. Lands exempt from State taxation.
11. Consent given to acquisition of lands by United States for Forest Reserve.
12. Consent given to Act of Congress in regard to agricultural experiment stations.

Section 1. The sovereignty and jurisdiction of this State extends to all places within its bounds, which are hereby declared to be as follows:

Jurisdiction of the State of South Carolina.

Civ. 1902, § 1.

The northern line, beginning at a point on the seashore, about a mile and a quarter east of the mouth of Little River, runs in a northwest direction, sixty-four and one-half miles, to a point two miles northwest of one of the branches of Little Pee Dee River; thence, in the same direction, twenty-two miles, to a stake in a meadow; thence, in a direction due west, a distance of sixty-two miles, to a point where the said line intersects the Charleston road, (at sixty-one miles) near the Waxhaw Creek; thence along the line extending from this point to the Tryon Mountain; thence, from a stone set up and marked "S. C. and N. C., September 15th, 1815," running west four miles and ninety poles, to a stone marked "S. C. and N. C."; thence south, twenty-five degrees west, one hundred and eighteen poles, to a chestnut on the top of the Ridge dividing the waters of the North Fork of Pacolet River from the waters of the North Fork of the Saluda River; thence along the various courses of the said Ridge, (agreeably to the Plat and Survey of the Commissioners and Surveyors accompanying their report, dated 2d November, 1815), to the Ridge that divides the Saluda waters from those of Green River; thence along the various courses of the said Ridge, agreeably to the said Plat and Survey, to a stone set up where the said Ridge joins the Ridge which divides the eastern from the western waters, and which stone is marked "S. C. and N. C., September 28th, A. D. 1815"; thence along the various courses of the said Ridge, agreeably to the said Plat and Survey, to a stone set up on that part of

Survey of 1785.

Survey of 1737.

Survey of 1764.

Survey of 1772.

Gov. Swain; I., 409; 1815, I., 420.

A. D. 1912.

it which is intersected by the Cherokee boundary line, run in the year 1797, and which stone is marked "S. C. and N. C., 1813"; and from the said last mentioned stone, on the top of the said Ridge, at the point of intersection aforesaid, a direct line, south, sixty-eight and one-fourth degrees west, twenty miles and eleven poles, to the thirty-fifth degree of north latitude, at the rock in the east bank of Chatooga River, marked "Latitude thirty-five degrees, A. D. 1813"; which line, from the termination of the line of 1772 to the Chatooga River, is, in all, a distance of twenty-four miles and one hundred and eighty-nine poles.

Watkins' Digest, 737.

Beaufort Convention, P. L., 460; 1787, I., 411.

Shults v. Bank, U. S. S. C., 1822, MS., per Johnson, J.

Handy v. Anthony, Ohio River Case, U. S. S. C., 5 Wheat., 374.

Original Charters, S. C. Trott's Laws.

From the State of Georgia, South Carolina is divided by the Savannah River, from its entrance into the ocean to the confluence of the Tugaloo and Seneca Rivers; thence by the Tugaloo River to the confluence of the Tugaloo and Chatooga Rivers; thence by the Chatooga River to the North Carolina line aforesaid, in the thirty-fifth degree of north latitude, the line being low-water mark at the southern shore of the most northern stream of said rivers where the middle of the rivers is broken by islands; and middle thread of the stream where the rivers flow in one stream or volume.

On the east, the State is bounded by the Atlantic Ocean, from the mouth of the Savannah River to the northern boundary, near the mouth of Little River, including all the islands.

Reciprocity as to chartered privileges between Georgia and South Carolina.

Civ. '02, § 2.

1851, XII, 119.

Sec. 2. Any charter or franchise granted, or to be granted, by the State of Georgia, for the purpose of building and establishing bridges or ferries over the Savannah River, shall have full effect within the limits and jurisdiction of the State of South Carolina, to the same extent, in all respects, as if such charter or franchise had been granted by the State of South Carolina: *Provided*, That the State of Georgia do, by law, provide that equal effect be given in the State of Georgia to charters and franchises granted by this State; and that the legal validity and effect of a charter, granted by either of the said States for the purposes aforesaid, shall be subject to this limitation and restriction, that no such charter, from either State, shall prevent the other State from granting a charter for a bridge or ferry over the Savannah River at any place, however near the place where

A. D. 1812.

a bridge or ferry is or may be established, under a charter from the other State.

Sec. 3. In respect to the places within the boundaries ceded by the State to the United States, the jurisdiction of this State is concurrent with that of the United States, according to the terms of cession in each case respectively.

Places ceded to the United States, and subject to concurrent jurisdiction.

Civ. '02, § 3.

The places ceded are as follows:

1. The light-house on Middle Bay Island, within the bar of Charleston harbor, bounded, to the north, by a small inlet passing between the said island and Morris Island; to the south, by an inlet calley Folly Inlet; to the east, by the Atlantic Ocean; and to the west, by a sound or creek passing between the said Middle Bay Island and the other island aforesaid; together with the lands and tenements thereunto belonging, and together with the jurisdiction of the same, as far as the same shall be incident and essential for the erection of forts, magazines, arsenals, dockyards and other needful buildings, and the appointment of officers, and general regulation of the said light-house, forts, magazines, arsenals, and dock-yards, in fee simple in as full, ample and effectual manner as the premises could be granted, aliened, transferred, conveyed and confirmed, by any deed or devise, in due form of law; upon the special proviso and condition, nevertheless, that the said United States shall sufficiently support, maintain, and keep in good repair, and rebuild, when necessary, the said light-house, from time to time, and at all times hereafter; and shall also erect, or cause to be erected, proper leading marks to and for, or as appending to, the said light-house, and cause buoys to be stationed in fit places for the further and better facilitating and securing the navigation; and that all expenses which shall accrue in, for, and about the said light-house, or the leading marks and buoys above mentioned, shall be defrayed out of the Treasury of the United States.

Lighthouse on Middle Bay Island, in Charleston Harbor.

1790, v., 148.

2. Seven acres of land on North Island, in Georgtown County, butting and bounding to the eastward on the sea, to the west and north by lands belonging to Paul Trapier, and to the south by Winyah Bay: *Provided, nevertheless,* That nothing contained in this cession shall be construed to exclude or prevent any process, criminal or civil, issuing from any of the Courts of this State, from being served or

Seven acres of land on North Island, Georgtown County.

1797, v., 309.

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executed within the limits of the said tract of seven acres of land.

Fort Moultrie on Sullivan's Island, Charleston County.

1805, V., 501, § 1.

3. All the lands reserved for Fort Moultrie, on Sullivan's Island, in Charleston County—provided the same shall not exceed five acres—with all the forts, fortifications, and buildings thereon, together with the canal leading from the cove on the back of the fort, nearly up to the same, as delineated on the plan of Charleston harbor by Col. Senf, in the Secretary of State's office at Columbia.

Fort Johnston, Charleston Co.

Ib.

4. The high lands and part of the marsh belonging to Fort Johnston, as delineated on the said plan of Charleston harbor—provided the same shall not exceed twenty acres—including the present site of Fort Johnston.

Fort Pinckney, Charleston Co.

Ib.

5. The land on which Fort Pinckney is built, and three acres around the same—Charleston County.

Sand bank on Southeast Point of Charleston.

Ib.

6. A portion of the sand bank marked "C," on the southeasternmost point of Charleston, as delineated on the said plan of Charleston harbor, not exceeding two acres.

Ten acres on Blythe's Point, Sampit River in Georgetown County.

1805, V., 501, § 1.

7. A lot, not exceeding four acres, for a battery or fort, and necessary buildings, on Dr. Blythe's point of land, at the mouth of Sampit River, Georgetown County, and a quantity of land, not exceeding six acres, on Dr. Blythe's said point of land, at the mouth of Sampit River, adjoining, and in addition to, the said four acres, and for the same purposes.

Mustard Island, and seven acres on St. Helena Island, Beaufort Co.

Ib.

8. Mustard Island, opposite Paris Island, in Beaufort River, and a tract of land on St. Helena Island, opposite the same, not exceeding seven acres—Beaufort County.

Five acres in Beaufort, Beaufort Co.

1808, V., 576, § 4.

9. Five acres of the public lands, near the town of Beaufort, including the site of Fort Lyttleton, Beaufort County, for the purpose of erecting a fort.

Fort Mechanic, Charleston Co.

1813, V., 696, § 1.

10. The lots or tracts of land whereon Fort Mechanic is erected, and such other lots and parcels of land as may be considered necessary to that establishment, so soon as they shall have been conveyed by Christopher Williman and William Holmes to the United States, for all purposes necessary to the maintenance of a military post: *Provided, however,* That nothing in this cession shall be construed to prevent any process, civil or criminal, issuing from any of the Courts of this State, or any other competent authority, from being served or executed within the limits of the said lots

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or tracts of land so to be conveyed by the said Christopher Williman and Wm. Holmes to the United States: *And provided, also*, That nothing contained in this cession shall be so construed as to impair the rights and privileges vested in the City Council of Charleston, under their charter of incorporation, who are hereby also authorized and empowered to relinquish their right or jurisdiction in and over the land aforesaid.

11. One hundred feet square of land, on Haddrell's Point, Charleston County, (conveyed by Mrs. Rebecca Bee Barksdale, for the use of the United States,) for the purpose of erecting a beacon thereon: *Provided, nevertheless*, That nothing contained herein shall be construed to exclude or prevent any process, civil or criminal, issuing from the Courts of this State, from being served or executed within the limits of the said cession.

One hundred feet on Haddrell's Point, Charleston Co.
1823, VI, 220.

12. One acre of land on Otter Island, in Colleton County, for a light-house; one acre of land on the north side of Station Creek, near St. Helena Island, in Beaufort County, for the erection of a beacon-light; and one acre of land on Bob's Island, at the entrance of Scull Creek, in Beaufort County, for the erection of a beacon-light: *Provided*, That the said lands, when purchased by, or vested in, the United States, and every person or officer residing or employed thereon, whether in the service of the United States or not, shall be subject and liable to the Government of this State, and the jurisdiction, laws, and authority thereof, in the same manner as if this cession had never been made; and that the United States shall exercise no more authority or power within the limits of the said land than they might have done previously to the cession thereof, or than may be necessary for the building, erection, repairing or internal government of the said light-house, and the regulation and management of the said light-house and the said beacon-lights that may be built and erected on the said lands, and of the officers and persons by them to be employed in and about the same.

One acre on Otter Island, Colleton Co.; one acre on Station Creek, and one acre on Bob's Island, Beaufort Co.
1837, VI, 569.

The said lands shall be forever exempt from any taxes to be paid to this State.

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Sites on Sullivan's Island, James' Island, and Shute's Folly Island, Charleston Co.

1846, XI, 366.
1848, XI, 514.
§ 2.

13. The lands, forts, fortifications and sites for the erection of forts on Sullivan's Island, James' Island, and Shute's Folly Island, in Charleston County, as delineated in a plan of survey, made by Robert Q. Pinckney, on the 17th November, 1846, under direction of commissioners appointed under Resolution of 1845, which lands, sites, forts and fortifications so ceded shall be exempt from any tax to be paid to this State: *Provided*, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall and may be served and executed on any part of the lands and sites, forts and fortifications so ceded, and on any person or persons there being and implicated in matters of law: *And provided, also*, That nothing herein contained shall be construed to interfere with the rights and property of the citizens, or so as to affect any of the streets, thoroughfares, or public landings on the said islands.

A lot on South Island, Georgetown Co.

1847, XI, 442.

14. A lot on South Island, in Georgetown County, on the southern edge of Winyah Entrance, for a light-house, which lot shall, during the continuance of the said light-house, be exempt from any taxes to be paid to this State: *Provided*, That the said lot, when purchased or vested in the United States, and every person and officer residing or employed thereon, whether in the service of the United States or not, shall be subject and liable to the Government of this State, and the jurisdiction, laws and authority thereof, in the same manner as if this cession had never been made; and that the United States shall exercise no more authority or power within the limits of the said land than they might have done previously to the cession thereof, or than may be necessary for the building, erection, repairing, or internal government of the said light-house, and of the officers and persons by them to be employed in and about the same.

Five acres in Charleston for a Custom House.

1848, XI, 514.

A site for a lighthouse on Morris Island, Charleston Co.

1853, XII, 295.

Same on Thomas' Island.

15. A lot, not to exceed five acres, in the City of Charleston, for the erection of a custom house; which lot, and the buildings erected thereon, shall be exempt from any tax to be paid to this State: *Provided*, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall and may be served and executed on any part of said land, and on any person or persons there being and implicated in matters of law.

Ib.

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16. A site on Morris Island, for a beacon or light-house—Charleston County.

Sites on North and South Island Points, near Georgetown, Georgetown Co.

17. A site on Thomas' Island, for a beacon or light-house.

18. Sites for three beacons, to be placed on or near North and South Island Points, in the vicinity of Georgetown—Georgetown County.

Ib.

19. A site on Cape Island, on some point in the immediate vicinity of the present light-house, on Cape Romain, for a light-house—Charleston County.

Same on Cape Island, Charleston Co.

Ib.

20. A site on the East Battery, in the City of Charleston, for a beacon or harbor-light.

Site in Charleston for harbor light.

Ib.

None of the sites ceded in sub-divisions 16 to 20, inclusive, to exceed ten acres in any one case; nor shall such sites be used for any other purpose than the purposes specified; and nothing shall exclude or prevent process, civil or criminal, issuing from the Courts of this State, from being served or executed within the limits of said cessions.

Site for beacon, in range with Charleston Light-house. Site for day beacon for St. Helena Sound, Beaufort Co.

1854, XII, 315.

21. A site for beacon to range with Charleston light-house.

Sites for beacons for Callabogue Sound, Beaufort Co.

A site for a day beacon for St. Helena Sound—Beaufort County.

Ib., 316.

22. Two sites for two beacons, to serve as a range for Callabogue Sound—Beaufort County.

Sites at North Edisto, Charleston Co.

23. A site for light-house and beacon-light on the main land, at North Edisto—Charleston County.

Ib.

24. A site for a light-house and beacon-light on the North Point of Hunting Island—Beaufort County.

Site on Hunting Island, Beaufort Co.

Ib.

25. A site for a light-house and beacon-light, on or near Hilton Head—Beaufort County.

Site on or near Hilton Head, Beaufort Co.

None of the sites ceded in sub-divisions 21 to 25, inclusive, to exceed fifty acres in any one case; the said sites shall be forever exempt from any taxes to be paid to this State, and the same restrictions shall attach thereto as attach to the cession of a lot on South Island, by the proviso in sub-division 14 of this Section. The cession of said sites shall not be construed to authorize their use for any other purpose than the purposes specified, nor to exclude or prevent any process, civil or criminal, issuing from the Courts of this State, from being served or executed within the limits of the same.

Ib.; 1856, XII, 592, § 3.

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Fifty feet on
South Bat-
tery, Charle-
ston.

1854, X I I,
315.

Site at Mt.
Pleasant,
Charleston
Co.

1856, X I I,
591.

Site at White
Point, Char-
leston Co.

Ib.
Site at Fort
Point, George-
town Co.

Ib.
Site of land
known as
"Charleston
Club House,"
on Meeting
St., in Char-
leston.

1870, X I V,
312, § 1.

Half an acre
in Columbia,
corner of
Richardson
and Laurel
Streets.

Ib., 326, § 1.

26. A site, restricted to fifty feet square, on South Battery, in the City of Charleston, for a beacon or harbor-light, which shall be forever exempt from any taxes to be paid to this State; and shall be subject to the same restrictions as attach to the cession of a lot on South Island, by the proviso in sub-division 14 of this section.

27. A site for a light-house, in or near Mount Pleasant, Charleston Harbor, not exceeding one acre.

28. A site for a beacon-light at White Point, in the City of Charleston, to be designated by the City Council of Charleston.

29. A site for a light-house on Fort Point, near Georgetown, not exceeding twenty acres—Georgetown County.

30. A lot of land for a Court House and offices connected therewith, for the use of the United States Courts, or for any other purposes to which the Government of the United States may think proper to apply it, viz.: All that lot, piece, or parcel of land, with the buildings thereon, known as the "Charleston Club House," situate, lying, and being on the west side of Meeting Street, in the City of Charleston, measuring and containing in front, on Meeting Street, fifty-eight feet, more or less, by about two hundred and thirty-six feet in depth, more or less; bounding, north, on lands now or late of Wm. P. Greenland; to the east, on Meeting Street; to the south, on lands of M. C. Mordecai; and to the west, on lands of the French Protestant Church: *Provided*, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall and may be served and executed on any part of the said premises, and on any person or persons there being, and implicated in any matter of law: *And provided, always*, That the said lot of land, and all the buildings and structures of every kind already thereon erected, or that may hereafter be erected thereon, shall be absolutely and forever exempt from all taxes of the County of Charleston, and the corporation of the City of Charleston, and of the aforesaid State.

31. A lot of land for a postoffice and Court House, and offices connected therewith, for the use of the United States, or for any other purpose to which the Government of the United States may think proper to apply it, viz.: All that lot, piece, or parcel of land in the City of Columbia, situate,

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lying, and being on the corner of the streets known as Richardson Street and Laurel Street, measuring one hundred and four feet, more or less, on Richardson Street, and two hundred and eight feet, more or less, on Laurel Street, and containing one-half an acre, more or less; bounded on the north by Laurel Street; on the east by Richardson Street; on the south by lot formerly belonging to Charles Beck, and now held by Hugh Weir; and on the west by lot formerly held by Robert N. Lewis, and, by his last will and testament, devised to Daniel B. Lewis, executor of said last will and testament of the said Robert N. Lewis: *Provided*, That all process, civil or criminal, issued under the authority of the State, or any officer thereof, shall and may be served and executed on any part of the said premises, and on any person or persons there being and implicated in any matter of law: *And provided, always*, That the said lot of land, and all the buildings and structures of every kind already thereon erected, or that may hereafter be erected thereon, shall be absolutely and forever exempt from all taxes of the County of Richland, and the corporation of the City of Columbia, and of the aforesaid State.

32. The jurisdiction of the State is hereby ceded to the United States of America over certain land situate in the County of Florence, and near the town of Florence, known as the "National Cemetery." The United States are to retain such jurisdiction so long as such lands shall be used as a National Cemetery, and no longer. Such jurisdiction is granted on the express condition that the State of South Carolina shall retain a concurrent jurisdiction with the United States in and over said lands, so far as that civil process in all cases not affecting the real or personal property of the United States, and such criminal or other process as shall issue under the authority of the State of South Carolina against any person or persons charged with crime or misdemeanor committed within or without the limits of the said lands, may be executed thereon in the same way and manner as if no jurisdiction had been hereby ceded.

The Nation-
al Cemetery
in Florence
Co.
XV, 312.

33. There is granted to the United States of America a quantity of land on Sullivan's Island, Charleston Harbor, not exceeding three hundred feet in length and two hundred feet in breadth, for the erection of the shore line of a jetty,

Shore line of
Morris Island
and of Sulli-
van's Island
for the erec-
tion of the
jetties for
Charleston
Harbor.
XVI, 709.

A. D. 1912.

to be erected for the improvement and deepening of the bar of Charleston harbor. The land so granted is described and located as follows: Starting from the magistral of the northeast salient angle of Fort Moultrie, thence running south two degrees seven and one-half minutes ($2^{\circ} 7\frac{1}{2}'$) east, eight hundred and forty-six (846) feet, to a point near high-water line on the south shore of Sullivan's Island; thence north eighty-six degrees thirty-five and one-half minutes ($86^{\circ} 35\frac{1}{2}'$) east, two thousand eight hundred (2,800) feet, to a point near the same high-water line; thence north seventy-seven degrees thirty-eight and one-half minutes ($77^{\circ} 38\frac{1}{2}'$) east, two thousand one hundred and ninety and one-half ($2,190\frac{1}{2}$) feet, to a point on the high-water line of said shore, which point is the south-west angle of the tract hereby conveyed; thence north seventy-seven degrees thirty-eight and one-half minutes ($77^{\circ} 38\frac{1}{2}'$) east, along said water-line three hundred (300) feet; thence north twelve degrees twenty-one and one-half minutes ($12^{\circ} 21\frac{1}{2}'$) west; two hundred (200) feet; thence south seventy-seven degrees thirty-eight and one-half minutes ($77^{\circ} 38\frac{1}{2}'$) west, three hundred (300) feet; thence south twelve degrees twenty-one and one-half minutes ($12^{\circ} 21\frac{1}{2}'$) east, two hundred (200) feet, to the high-water line at the before-mentioned south-west angle of the tract herein conveyed; and the accretion on the three hundred (300) feet of water-front of said tract shall also belong to the United States for the purposes aforesaid.

XVII, 95.

There is hereby granted to the United States of America a quantity of land on Morris Island, Charleston Harbor, sufficient for the erection of a shore line of a jetty for the improvement and deepening of the bar of Charleston Harbor, not exceeding fifteen hundred feet in length, measured on the high-water line, and two hundred feet in breadth, which land so granted may be located and selected either from the land now owned by the State of South Carolina at the north end of Morris Island; and the accretion on the water-front of said land so granted shall also belong to the United States for the purposes aforesaid. That in addition to said lands herein granted, is also ceded to the United States of America such other quantity of land on Morris Island as may be needed for the shore line of the jetty

A. D. 1912.

aforesaid, belonging to any person or persons other than the State of South Carolina, so soon as such land has been or may be conveyed by the owner thereof to the United States of America: *Provided*, That a plat of all the lands herein granted and ceded shall be made and be deposited in the office of the Secretary of State under the supervision and direction of the proper officer of the United States in charge of the jetties.

So much land of the State as may be needed for the permanent construction of the shore end of the jetties in Charleston Harbor lying on and next adjacent to Morris Island and the creeks and marshes contiguous thereto, be, and the same are hereby, granted to the United States of America, for the purpose of the erection and construction of said shore end of said jetties: *Provided*, The same do not exceed one hundred and fifty acres: *Provided, further*, That nothing herein contained shall be construed to impair or affect the rights of owners or of any private individuals claiming the said lands, or any part thereof.

Land ceded
for Charles-
ton jetties.
1899, X X,
290.

Provisos.

34. Such lands as may be required for the purpose of connecting Winyah Bay and Santee River, in Georgetown County, so as to facilitate commerce.

Certain lands
in Georgetown
County be-
tween Winyah
Bay and San-
tee River.

35. There is hereby ceded to the United States of America, for the purpose of constructing jetties for the improvement of the bar at the entrance of Winyah Bay, S. C., any and all rights of the State to the adjacent water-covered territory extending from high-water mark in certain lands granted by Bettie Mason Alexander and Edward P. Alexander to the United States of America, by deed bearing date the 17th of September, 1889, and recorded in the office of the Register of Mesne Conveyance for Georgetown County, in Book K, page 692-695, outward about (500) five hundred feet, and also from the jetties to be constructed by the United States outward about five hundred feet in every direction into the Atlantic Ocean and Winyah Bay, respectively, and to any and all accretions to said territory growing out of the construction of said jetties, or from any other causes; this territory being at present bounded as follows, to wit:

A. A. 1882.

Land ceded
for George-
town jetties.
1899, X X,
291.

North Island: Beginning at a point on the west side of the southern point of said island at the high-water line, about (1600) sixteen hundred feet distant, and south 4

Description
of land ceded
on North Is-
land.

A. D. 1912.

degrees 39 minutes east from the centre of the Georgetown Light-house; and running thence due west about (1,200) one thousand two hundred feet; thence south 47 degrees 16 minutes east (6200) sixty-two hundred feet; thence south 63 degrees 45 minutes east (2800) twenty-eight hundred feet; thence south 84 degrees east (10,200) ten thousand two hundred feet; thence north (1,000) one thousand feet; thence north 84 degrees west (9900) ninety-nine hundred feet; thence north 63 degrees 45 minutes west (2400) twenty-four hundred feet; thence north 47 degrees 16 minutes west (2700) twenty-seven hundred feet; thence north 45 degrees east (2500) twenty-five hundred feet; thence west to the high-water line on the east side of North Island Point; thence around said point toward Winyah Bay, with the various meanderings of said high-water line to the beginning.

Description
of land ceded
on South Is-
land.

South Island: Beginning at a point on the beach of said island about (12,511) twelve thousand five hundred and eleven feet south of the eastern end of the southern boundary of land now belonging to W. C. Johnstone, and from which the Georgetown Light-house bears north $28\frac{1}{2}$ degrees east, and the centre of the U. S. dyke across Lagoon Creek bears north $33\frac{1}{2}$ degrees west, and runs thence in a southerly direction (800) eight hundred feet to a point on the high-water line; thence due east (22,100) twenty-two thousand one hundred feet; thence south (1,000) one thousand feet; thence due west to the high-water line on South Island; thence with the various meanderings of said high-water line to the second corner from the beginning (counting the beginning corner as the first corner): *And provided also,* That all the above deeded lands and territory shall be exempted from all State taxes, assessments and other charges, as provided in Section 10, Chapter I, of this Code, for the lands theretofore granted to the United States for similar purposes.

Exemption
from taxes.

Plat to be
executed and
filed.

The proper officers of the United States, in charge of said jetties, from time to time shall cause to be executed a plat of the lands which may be required for the purposes aforesaid, and file the same in the office of the Secretary of State of this State.

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36. The right, title and interest of this State to, and the jurisdiction and control of this State over, the following described tracts or parcels of land and land covered with water, situated in the town of Moultrieville, on Sullivan's Island, in the County of Charleston, in this State, be, and the same are hereby, granted and ceded to the United States of America as sites for the location, construction and prosecution of works of fortifications and coast defenses, to wit: All that tract or parcel of land, and land covered with water, bounded as follows: Beginning at the point of intersection of the eastern boundary line of the Fort Moultrie military reservation with the line of the southern side of Beach Avenue, and running thence along the southern side of said Beach Avenue, in an easterly direction, to its intersection with the western side of Sumter Street; thence along the western side of Sumter Street and along the western side of Sumter Street extended, in a southerly direction, to a point in the sea one hundred yards beyond low-water mark; thence in a westerly direction, following the meanderings or intersections of a line in the sea one hundred yards beyond low-water mark to the eastern boundary line of the Ft. Moultrie military reservation extended and thence along the eastern boundary line of the Fort Moultrie military reservation extended, and along said eastern boundary line, in a northerly direction, to the place of beginning. Also, all that tract or parcel of land, and land covered with water, bounded as follows: Beginning at a point in the sea on the prolongation or extension, in a southerly direction, of the dividing line between Lot T and Lot U, as laid down on the plan of said town of Moultrieville, one hundred yards beyond low-water mark, and running thence in a northerly direction, along the prolongation or extension of said dividing line, along said dividing line, and the line that divides Lot No. 224 from Lot No. 225, as laid down on the plan of said town of Moultrieville, to the southerly side of Ion Street; thence in an easterly direction, along the southerly side of Ion Street, to the point of intersection of the southerly side of that street with the dividing line between Lot No. 256 and Lot No. 257, as laid down on the plan of said town of Moultrieville; thence in a southerly direction, along the dividing line between said Lots Nos. 256 and 257, and

Jurisdiction
over certain
lands on Sul-
livan's Island
given to the
U. S.
1896, XXII,
890.

A. D. 1912.

the dividing line between Lot No. 260 and Lot No. 261, as laid down on the plan of said town of Moultrieville, and the prolongation or extension of said dividing lines, to a point in the sea one hundred yards beyond low-water mark; thence in a southwesterly direction, following the meanderings or indentations of a line in the sea one hundred yards beyond low-water mark to the place of beginning, excepting from the tract or parcel of land so described and hereby ceded, the United States jetty reservation. Also, all that tract or parcel of land, and land covered with water, bounded as follows: Beginning at a point in the sea on the prolongation or extension, in a northerly direction, of the easterly side of Horry Street, one hundred yards beyond low-water mark, and running thence, in a southerly direction, along the prolongation of the easterly side of said Horry Street, and along the easterly side of said street to its intersection with the northerly side of East Middle Street or Beach Avenue; thence in an easterly direction, along the northerly side of said East Middle Street or Beach Avenue, to the point of intersection of the northerly side of that street with the dividing line between Lot No. 269 and Lot 270, as laid down on the plan of said town of Moultrieville; thence in a northerly direction along the dividing line between said Lots Nos. 269 and 270 and the dividing line between Lot. No. 265 and Lot No. 266, as laid down on the plan of said town of Moultrieville, and the prolongation of said dividing lines, to a point in the sea one hundred yards beyond low-water mark; thence in a southwesterly direction, following the meanderings or indentations of a line in the sea one hundred yards beyond low-water mark, to the place of beginning.

1900, XXIII,
422.

37. Also the right, title and interest of this State to, and the jurisdiction of this State over, the following described tracts or parcels of land, and land covered with water, situated in the town of Moultrieville, on Sullivan's Island, in the County of Charleston, in this State, be, and the same are hereby, granted and ceded to the United States of America as sites for the location, construction and prosecution of works of fortifications and coast defenses, and for the use of the garrison, to wit:

All that tract and parcel of land, and land covered with water, bounded as follows: Beginning at a point on the prolongation or extension, in a northerly direction of the westerly line of Lot 159, as laid down on the plan of said town of Moultrieville, on the back beach, and one hundred yards beyond high-water line; thence in an easterly direction following the meanderings or indentations of a line one hundred yards beyond said high-water line to the intersection of the prolongation or extension in a northerly direction of the western line of Pettigru Street; thence in a southerly direction along said prolongation or extension of the said westerly line of Pettigru Street, along said westerly line of Pettigru Street, and along the prolongation or extension in a southerly direction of said westerly line of Pettigru Street, to a point one hundred yards beyond low-water line in the sea; thence in a westerly direction, following the meanderings or indentations of a line in the sea one hundred yards beyond low-water line to its intersection with the prolongation or extension, in a southerly direction, of the eastern side of Marion Street; thence in a northerly direction along said prolongation or extension of the eastern side of Marion Street, and along said eastern side of Marion Street to its intersection with the northern side of Central Avenue; thence in a westerly direction along the northern side of Central Avenue to the southwest corner of Lot 159 aforesaid; and thence in a northerly direction along the western line of said Lot 159 aforesaid, and along the prolongation or extension, in a northerly direction, of the western line of said Lot 159 to the place of beginning, excepting from the area described those portions which are occupied and in use by the public as highways, known as Central Avenue and Beach Avenue; and also all that tract and parcel of land, and land covered with water, bounded as follows: beginning at a point on the prolongation or extension, in a northerly direction, of the westerly line of Lot 131, as laid down on the plan of said town of Moultrieville, on the back beach, and one hundred yards beyond high-water line; thence in an easterly direction following the meanderings or indentations of a line one hundred yards beyond said high-water line to the intersection of the prolongation or extension, in a northerly direction, of the eastern

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line of Marion Street; thence in a southerly direction along said prolongation or extension of said easterly line of Marion Street along said easterly line of Marion Street, and along the prolongation or extension in a southerly direction of the said easterly line of Marion Street, to a point one hundred yards beyond low-water line in the sea; thence in a westerly direction following the meanderings or indentations of a line in the sea one hundred yards beyond low-water line to its intersection with the prolongation or extension in a southerly direction of the eastern side of Sumter Street; thence in a northerly direction along said prolongation or extension of the eastern side of Sumter Street, and along said eastern side of Sumter Street to the place of beginning—excepting from the area described those portions which are occupied and in use by the public as highways, known as Central Avenue and Beach Avenue.

1901, XXIII.
608.

38. Also the right, title and interest of this State to, and the jurisdiction of this State over, the lands comprising those portions of Central Avenue and Beach Avenue, in the town of Moultrieville, Sullivan's Island, in this State, which lie between Pettigru and Sumter Streets in said town of Moultrieville, are hereby ceded to the United States of America for military purposes; and the portion of Beach Avenue herein ceded is vacated and discontinued as a public highway: *Provided*, That the portion of Central Avenue herein ceded shall be forever kept open as a public street; and this cession shall in no way interfere with any private rights, or any franchise heretofore legally granted with reference to said Central Avenue: *And Provided, further*, That this State reserves the right to authorize the laying and maintaining of tracks for railroad or traction purposes on and across the portion of Central Avenue ceded, or on lands contiguous thereto, and lying within 15 feet of the same.

Provided, That there is hereby reserved to this State a concurrent jurisdiction for the execution within said lands mentioned in subdivisions 36, 37 and 38 of all process, civil or criminal, lawfully issued by the Courts of the State and not incompatible with this cession.

Condition of
the grant.

The grant hereinbefore made in subdivisions 36 and 37 is upon the condition that the said grant shall not be effectual

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as to any portion of the premises embraced in the foregoing description in which any person or persons have now any right, title or interest, or upon which any person or persons now own or have any structures or improvements, until the United States of America shall have compensated such person and persons for such right, title and interest, and for such buildings, structures and improvements, and acquired the title of such person and persons thereto; and said grant shall not be effectual until the United States of America shall have further compensated the parties who, at and before the cession of said jetty reservation, owned like interests or owned structures and improvements upon the territory heretofore ceded by this State to the United States of America for a jetty reservation.

In case of the failure of the United States of America and any persons interested as aforesaid, or owner as aforesaid, to agree upon the proper compensation to be paid as above provided, the United States of America is authorized to have the same determined by the verdict of a jury upon application by petition to the Court of Common Pleas for Charleston County, which shall be served as by law a summons in a civil action in said Court is required to be served, and the same shall be heard without delay at a term of said Court and under the direction of the presiding Judge thereof, and such determination shall be final and without appeal; and upon the amount so found being paid, with the cost of Clerk and Sheriff, if any, the right and title of the parties thereto shall vest in the United States of America.

Compensation, how determined.

1896, XXII, 890; 1890, XXIII, 422.

All streets, roads and highways within the said tracts or parcels of land except Central Avenue, as above stated, are vacated and discontinued from the time said grant becomes effectual.

Streets, etc., included in above grant vacated.

39. All those marsh lands next adjacent to Castle or Fort Pinckney, not already ceded to the United States of America, and consisting of fifty acres of marsh lands, more or less, be, and the same are hereby, granted unto the United States of America for the purpose of the erection, construction and maintaining of a Home or Sanitarium for disabled officers, soldiers and sailors of the army and navy of the United States of America.

Certain lands in Charleston Harbor ceded to United States for a sanitarium.

1898, XXII, 962.

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Land to be
exempt from
taxes.

Said lands shall be, and continue, so long as the same shall be used for the purpose aforesaid, exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of the State of South Carolina.

Plat of land
to be made
and filed with
Secretary of
State.

The proper officers of the United States in charge of such institution shall cause to be executed a plat of the lands which may be acquired for the purpose herein mentioned, and file the same in the office of the Secretary of State of this State.

Title of the
State to cer-
tain lands in
town of Moul-
trieville,
Charleston
County.1908, XXIII,
4.

40. The right, title and interest of this State to, and the jurisdiction of this State over, the following described tract or parcel of land, and land covered with water, situated in the town of Moultrieville, on Sullivan's Island, in the County of Charleston, in this State, are hereby granted and ceded to the United States of America for the enlargement of the military reservations on said island, to wit: All that tract and parcel of land, and land covered with water, bounded on the west by the Fort Moultrie Reservation and parade ground; on the south by lands recently acquired by the United States for fortification purposes; on the east by lands recently acquired by the United States for garrison purposes, and on the north by a line following the meandering or indentations of a line in the sea one hundred yards beyond high-water line; the easterly and westerly boundaries to be extended to meet this last mentioned line: *Provided*, That there is hereby reserved to this State a concurrent jurisdiction for the execution within said lands of all process, civil or criminal, lawfully issued by the Courts of this State, and not incompatible with this cession: *Provided, further*, That the portion of Central Avenue within the tract herein ceded shall be forever kept open as a public street, and shall, together with its continuation through the government reservation, be kept in proper condition and repair by the government; and this cession shall in no way interfere with any private rights or any franchise heretofore legally granted with reference to said Central Avenue: *And Provided, further*, That this State reserves the right to authorize the laying and maintaining of tracks for railroad or traction purposes on or across the portion of Central

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Avenue ceded, or on lands contiguous thereto, and lying within fifteen feet of the same.

The grant hereinbefore made is upon condition that the said grant shall not be effectual as to any portion of the premises embraced in the foregoing description in which any person or persons have now any right, title or interest, or upon which any person or persons now own or have any structures or improvements, until the United States of America shall have compensated such person or persons for such right, title and interest, and for such buildings, structures and improvements, and acquired the title of such person or persons thereto.

Condition of grant.

In case of the failure of the United States of America and any persons interested as aforesaid, or owner as aforesaid, to agree upon the proper compensation to be paid as above provided, the United States of America is authorized to have the same determined by the verdict of a jury, upon application by petition to the Court of Common Pleas for Charleston County, which shall have exclusive jurisdiction of the same, and which shall be served as by law a summons in a civil action in said Court is required to be served, and the same shall be heard without delay at a term of said Court and under the direction of the presiding Judge thereof, and such determination shall be final and without appeal, and upon the amount so found being paid, with all costs of the proceedings, if any, the right and title of the parties shall vest in the United States of America.

Failure to agree on compensation.

All streets, roads and highways, except Central Avenue, within the said tract or parcel of land, are vacated and discontinued from the time the said grant becomes effectual.

41. The right, title and interest of this State to, and the jurisdiction and control of this State over, a strip of land, and land covered with water, four hundred feet wide and lying two hundred feet on each side of the centre line of the route selected by the United States of America for inland waterways between Charleston harbor and a point opposite McClellanville, is hereby granted and ceded to the United States of America, for the purpose of constructing and improving the said inland waterways between Charleston harbor and a point opposite the town of McClellanville, in the said Charleston County, and is described as follows, to

Certain lands in Charleston County and lands covered with water.

1903, XXIII, 6.

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wit: From the cove back of Sullivan's Island following the deepest water of Sullivan's Island Narrows to the bend next east of the point known as Spanish Fort; thence the route leaves the natural waterway, and a marsh cut is to be made across a long bend; thence along the deepest part of the natural waterway to Branch Inlet, and thence back of Isle of Palms to Meeting Reach, and through same to Seven Reaches; thence through Seven Reaches to Dewees Inlet; thence to and through Bull Yard Sound and into Capers Inlet; thence to and through Santee Pass to Price's Inlet; thence to and through Bull Narrows, having one marsh cut across a bend at or near the narrowest part of this passage; thence through Bull Creek and across the marsh to Sewee Creek; thence across marsh to Van Ross Creek; thence down same and across the marsh to Vanderhorst Creek; thence through marsh to Belvedere Creek; thence up Belvedere Creek and through marsh to Salt Pond Creek; thence up Salt Pond Creek and through marsh to Graham's Creek; thence up Graham's Creek, cutting across one sharp bend and through marsh to Owendaw Creek; thence down Owendaw Creek and Harbor River to Long Creek; thence by Long Creek and a marsh cut to Bull River; thence down Bull River to Five Fathom Creek, which junction is the nearest point in the proposed route to McClellanville: *Provided*, That there is hereby reserved to this State a concurrent jurisdiction for the execution within said lands of all process, civil or criminal, lawfully issued by the Courts of the State, and not incompatible with this cession.

Dredging material may be deposited on adjoining marsh lands.

The material dredged from the proposed channel in order to widen and deepen the same may be disposed of by depositing such material upon the adjoining marsh lands outside of the strip of land designated herein, if such disposal be found necessary or desirable for construction or maintenance of said channel: *Provided*, That by the use of said adjoining lands for purposes aforesaid, the United States of America shall not acquire any right, title or interest in or to the said lands outside of the strip four hundred feet wide, excepting the right to deposit material thereon.

Condition of grant.

The grant hereinbefore made is upon the condition that the said grant shall not be effectual as to any portion of the premises embraced in the foregoing description in which

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any person or persons have now any right, title or interest, or upon which any person or persons have now any legal structures or improvements, until title shall have been acquired by the United States of America to said right, title or interest, or to such structures or improvements.

All lands and tenements which may be granted as aforesaid to the United States of America shall be, and continue (so long as the same shall be used for the purposes hereinbefore mentioned), exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of the State of South Carolina.

42. The right, title and interest of this State to, and the jurisdiction of this State over, the following described lot or parcel of land are hereby granted and ceded to the United States of America, for the erection of a public building, to wit: That lot of land in the City of Florence, County of Florence, and State of South Carolina, situate on the north-western corner of Evans and Irby streets, fronting on each street one hundred and fifty feet, and known on the plat of the City of Florence, made by J. W. Brunson, surveyor, May 5th, 1896, as the eastern part of lot No. 21, in sectional block C, and bounded north by lot No. 20, east by Irby Street, south by Evans Street and west by part of lot No. 21: *Provided*, That there is hereby reserved to this State a concurrent jurisdiction for the execution within said lot of all processes, civil or criminal, lawfully issued by the Courts of this State, and not incompatible with this cession.

Lot in Florence for erecting public building.
1904, XXIV, 460.

43. The consent of the State of South Carolina is hereby given in accordance with the 17th clause of the 8th Section, of Article I., of the Constitution of the United States to the acquisition by the United States, by purchase, condemnation, or otherwise of the several lots or parcels of land in this State hereinafter mentioned or described, to wit: 1. A site in or near the city of Columbia, County of Richland, for a weather bureau for the government. 2. A site in the city of Spartanburg, County of Spartanburg, for a postoffice and courthouse, described as follows: Beginning at the southwest corner of North Church and Walnut streets in said city, and running thence westerly with said Walnut street, one hundred forty-one and two-tenths feet to stake; thence south 29 degrees east, one hundred and forty-seven

Jurisdiction over certain lots in Columbia, Spartanburg, Rock Hill, and Georgetown.
1904, XXIV, 470.

City of Columbia.

City of Spartanburg.

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City of Rock Hill.

feet to stake; thence easterly to North Church street, **one** hundred thirty-nine and six-tenths feet; and thence northerly with North Church street one hundred forty-seven and **five**-tenths feet to the beginning corner, being the lot conveyed to the United States of America by J. F. and J. B. Cleve-

land, by deed dated April 24th, 1903. 3. A site in the city of Rock Hill, County of York, for a postoffice and courthouse, described as follows: Beginning on the east corner of Caldwell and Main streets, and running along said Caldwell street one hundred and thirty-six feet to corner, thence along the line of the Roach lot one hundred and thirty feet to corner; thence along the line of the estate of Fannie B. Reid to corner on Main street one hundred and thirty-five feet; thence to beginning corner one hundred and thirty feet, bounded by said streets, the Roach lot and lands of the estate of Fannie B. Reid, being the identical lot conveyed to the United States of America by the heirs of the estate of John Roach, by deed dated the day of , 190—.

City of Georgetown.

4. A site in the city of Georgetown, County of Georgetown, for a public building for the purposes of the government, described as follows: All that certain piece, parcel or lot of land, situate, lying and being at the corner of King and Front streets, in said city of Georgetown, and measuring on King street one hundred and twenty feet, and on Front street one hundred and thirty feet, and bounded by Front street, King street, and on all other sides by lands of the estate of George R. Congdon, deceased, being the same premises conveyed by said George R. Congdon, in his lifetime, to said United States of America, by deed bearing date the 9th day of May, 1903, and duly recorded in the office of the Register of Mesne Conveyances for said Georgetown County, in Book V, page 317.

Jurisdiction of State ceded.

The right, title and interest of this State to, and its jurisdiction over, the said lots or parcels of land are hereby ceded to the United States of America: *Provided*, That the jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said lands by purchase, condemnation or otherwise, and shall continue so long as the said lands shall remain the property of the United States: *And provided, further*, That the State of South Carolina shall retain jurisdiction for the execution within

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said lands of all process, civil or criminal, lawfully issued by the authority of this State, and not incompatible with this cession.

The said lands and all the buildings and structures of every kind which may be erected thereon shall be exempt from all State, County and municipal taxation, assessments, or other charges which may be levied or imposed under the authority of this State so long as the same shall remain the property of the United States.

Lands exempt from State taxation.

44. The right, title and interest of this State to, and the jurisdiction of this State over, the following described tract or parcel of land, and land covered with water, situated in the town of Moultrieville, on Sullivan's Island, in the County of Charleston, in this State, are hereby granted and ceded to the United States of America, for the enlargement of the military reservations on said Island, to wit: All that tract and parcel of land, and land covered with water, on the eastern end of Sullivan's Island aforesaid, lying to the south of the right of way of the Seashore Division of the Charleston Consolidated Railway, Gas and Electric Company, and east of the street known as Sixth street, and of the same extended southward to low water mark on the plan of Moultrieville, made by Lamble, Surveyor, in 1899, and recorded Book —, page—, R. M. C. office, Charleston County: *Provided*, That there is hereby reserved to this State a concurrent jurisdiction for the execution within said lands of all process, civil or criminal, lawfully issued by the Courts of this State, and not incompatible with this cession: *Provided, further*, And the said grant is made subject to the following reservations and exception, to wit: that such portion of the front beach of said Sullivan's Island included within the limits of said grant, as lies below a line drawn along said beach twenty (20) feet above high-water mark, and parallel thereto, shall be always open to the public as a footway and driveway, so that the public shall have the free and unobstructed right of passage by foot and carriage upon, over and across the same, subject to the right of the said United States Government to close and exclusively occupy the same, so far as the reservations in this proviso are concerned, at the following times and under the following circumstances, to wit:

Jurisdiction over certain lands in town of Moultrieville, Charleston Co.

1905, XXIV, 825.

Grant subject to reservations.

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When drive-
way may be
closed.

1. During hours of actual target practice in, over or upon the said portion of the said premises (during which time of closure, due and proper notice of the same shall be given to the public).

2. During hours of actual military drill in, over and upon the said portion of the said premises, and

3. During time of war.

Grant not to
cover private
property.

The grant hereinbefore made is upon condition that the said grant shall not be effectual as to any portion of the premises embraced in the foregoing description in which any person or persons have now any right, title or interest, or upon which any person or persons now own, or have any structures or improvements, until the United States of America shall have compensated such person or persons for such right, title and interest, and for such building, structures and improvements, and acquired the title of such person or persons thereto.

How value
determined.

In case of the failure of the United States of America and any person interested as aforesaid or owner as aforesaid, to agree upon the proper compensation to be paid, as above provided, the United States of America is authorized to have the same determined by the verdict of a jury, upon application by petition to the Court of Common Pleas of Charleston County, which Court shall have exclusive jurisdiction of the same, and which petition shall be served as by law a summons in a civil action in said Court is required to be served, and the said cause shall be heard without delay at a term of said Court and under the direction of the presiding Judge thereof, and such determination shall be final and without appeal; and upon the amount so found being paid, with all costs of the proceedings, if any, the right and title of the parties shall vest in the United States of America.

Streets and
roads vacated.

All streets, roads, rights of way and highways within said tract or parcel of land are vacated and discontinued from the time the said grant becomes effectual, saving such as are expressly excepted or reserved in this subdivision.

Jurisdiction
over certain
lands in town
of Moultrie-
ville, Charle-
ston Co.

45. The right, title and interest of this State to and in, and the jurisdiction of this State over, the following described lands, situated in the town of Moultrieville, on Sullivan's Island, in the County of Charleston, in this State,

1906, XXIV,
19.

are hereby granted and ceded to the United States of

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America for the enlargement of the military reservations on **said** island, to wit: All those pieces or parcels or tracts of **land**, lying and being in the said town of Moultrieville, and **comprising**, not only the two lots designated by the letters "O" and "P" on a plan of Moultrieville compiled from **official** maps and surveys by H. S. Lamble, Civil Engineer, in April, 1902, and recorded July 15th, 1902, at page 189 of **Plat Book D**, in the office of the Register of Mesne Conveyances for the said County of Charleston (on which or a part of which said two lots "O" and "P" is located the Life Saving Station), but also the land of the same width as that of the said two lots together and extending in front of and from the said two lots down to mean low-water mark; the said two lots "O" and "P" together measuring two hundred (200) feet, more or less, from rear to front and two hundred and twenty-five (225) feet, more or less, in width, and butting and bounding northeastwardly on Patrick street, northwestwardly on Ion street, southwestwardly on the lot designated by the letter "N" on said plan, and southeastwardly on Atlantic street or the front beach: *Provided*, That there is hereby reserved to this State a concurrent jurisdiction for the execution upon or within said lands of all process, civil and criminal, lawfully issued by the Courts of this State, and not incompatible with this cession: *And Provided*, ^{Reservations and exceptions.} *further*, And the said grant is made subject to the following reservations and exceptions, to wit: that such portion of the front beach of said Sullivan's Island included within the limits of said grant as lies below a line drawn along said beach twenty (20) feet above high-water mark, and parallel thereto, shall be always open to the public as a footway and driveway, so that the public shall have the free and unobstructed right of passage by foot and vehicle upon, over and across the same, subject to the right of the United States Government to close and exclusively occupy the same, so far as the reservations in this proviso are concerned, at the following times and under the following circumstances, to wit:

- (1) During hours of actual target practice in, over and upon the said premises (prior to which time of closure due and proper notice of the same shall be given to the public).
- (2) During hours of actual military drill in, over and upon the said premises, and (3) During time of war.

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U. S. to com-
pensate land
owners.

The grant herein and hereby before made is upon condition that it (the said grant) shall not be effectual as to any portion of the premises embraced in the foregoing description in or to which any person or persons have now any right, title or interest, or upon which any person or persons now own or have any buildings, structures or improvements, until the United States of America shall have compensated such person or persons for such right, title and interest and for such buildings, structures and improvements, and shall have acquired the right, title and interest of such person or persons thereto or therein.

Failure to
agree.

In case of the failure of the United States of America and any person interested as aforesaid or owner as aforesaid to agree upon the proper compensation to be paid as above provided, the United States of America is authorized to have the same determined by the verdict of a jury, upon application by petition to the Court of Common Pleas of Charleston County, which Court shall have exclusive jurisdiction of the same, and which petition shall be served as by law a summons in a civil action in said Court is required to be served, and the said cause shall be heard without delay at a term of said Court and under the direction of the presiding Judge thereof, and such determination shall be final and without appeal; and upon the amount so found being paid, with all costs of the proceedings, if any, the right, title and interest of such person or owner thereto and therein shall vest in the United States of America.

Streets and
roads vacated.

All streets, roads, rights of way and highways within said lands are vacated and discontinued from the time this grant shall become effectual, saving such as are expressly excepted or reserved in this subdivision.

Sites in
Chester, An-
derson and
Greenwood.1907, XXV,
634.

46. The consent of the State of South Carolina is hereby given, in accordance with the 17th clause of the 8th Section of Article I, of the Constitution of the United States, to the acquisition by the United States, by purchase, condemnation, or otherwise, of the several lots or parcels of land in this State hereinafter mentioned or described, to wit: 1. A site in the city of Chester for a postoffice or courthouse building, described as follows: Beginning at the north corner of the intersection of Main and Wylie streets, thence north 46 deg. 00 min., west 130 feet along Wylie street to west

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corner, thence north 44 deg. 15 min., east 120 feet to north corner, thence south 46 deg. 00 min. east, to east corner 127 feet and 5 inches to the east corner, thence south 44 deg. 40 min., west 120 feet to the beginning corner, being the south corner of said lot, bounded by the said Main and Wylie streets and the lands of John J. Hemphill and G. Brown White. 2. A site in the city of Anderson for a postoffice building, at the northwest corner of North Main and a new street known as Federal street, beginning at the intersection of the said streets and running along Federal street south 79 deg., west 135 feet to corner on Federal street, thence north 11 deg., west 150 feet to corner, thence north 79 deg. east 135 feet to corner on Main street, thence south 11 deg., east 150 feet along Main street to the beginning corner. 3. A site in the city of Greenwood for a postoffice building, described as follows: All and singular that certain lot or parcel of land, situate in the northwestern corner of Main and Oregon streets, of the city of Greenwood, County of Greenwood, South Carolina, containing thirty-five one-hundredths of an acre, and bounded north one hundred and twenty feet by lot of Mrs. C. T. Bailey; east one hundred and thirty feet by Main street; south one hundred and twenty feet by Oregon street; and west one hundred and thirty feet by lot of Mrs. C. T. Bailey.

The right, title and interest of this State to, and its jurisdiction over, the said lots or parcels of land are hereby ceded to the United States of America: *Provided*, That the jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said lands, by purchase, condemnation, or otherwise, and shall continue so long as the said lands shall remain the property of the United States: *And Provided, further*, That the State of South Carolina shall retain jurisdiction for the execution within said lands of all process, civil or criminal, lawfully issued by the authority of this State, and not incompatible with this cession.

Title ceded.

The said lands, and all the buildings and structures of every kind which may be erected thereon, shall be exempt from all State, County and municipal taxation, assessments, or other charges which may be levied or imposed under the

Exempted
from taxa-
tion.

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authority of this State, so long as the same shall remain the property of the United States.

Tracts in
Charleston,
Beaufort and
Georgetown
Counties for
quarantine
purposes.

1907, XXV,
686.

47. The right, title and interest of this State to, and the jurisdiction of this State over, the following described tracts of land, and land covered by water, situated in the Counties of Charleston, Beaufort and Georgetown, in this State, is hereby granted and ceded to the United States of America for the purposes of quarantine, to wit:

A tract of
land on James
Island.

A. 1. A tract of land on James Island, Charleston Harbor, South Carolina, lying and being upon the easterly, southerly and westerly sides of the land belonging to the United States Government and known as the Fort Johnson Reservation, being ninety acres, more or less, and including the marsh land and tide flats east and south of said Fort Johnson Reservation to low-water line.

And the
buildings
thereon.

2. The buildings now on said ninety-acre tract, consisting of one two-story frame house, about 40 ft. x 35 ft., known as the medical officers' quarters, with a 20 ft. x 11 ft. semi-detached kitchen and a one-story frame storehouse in the immediate vicinity, about 20 ft. x 10 ft. in size, and the lazaretto buildings, on Shell Point, consisting of a pest house, one story, frame, 15 ft. x 30 ft.; isolation hospital, one story, frame, 32 ft. x 20 ft., with a brick cistern in rear; keeper's house, one story, frame, 29 ft. x 36 ft., with 20 ft. x 12 ft. detached kitchen, and a small privy.

Quarantine
Station at
Georgetown.

B. The Quarantine Station, at Georgetown, South Carolina, on South Island, entrance to Georgetown Harbor, consisting of five acres of land, more or less, a residence and outbuildings.

Quarantine
Station at
Buzzard Is-
land, Beaufort
County.

C. The Quarantine Station, on Buzzards' Island, at the entrance to St. Helena Sound, consisting of ten acres, more or less, officers' quarters, two hospital buildings, and quarters for crew.

Quarantine
Station at
Paris Island,
Beaufort Co.

D. The Quarantine Station, on Paris Island, Port Royal Sound, consisting of fifteen acres, more or less, an officer's residence, two hospitals and outbuildings.

State Board
of Health to
transfer
lands.

1908, XXV,
1182.

The State Board of Health shall, and it is hereby authorized and directed, to convey and transfer to the United States, all buildings and appurtenances upon, or appertaining to said tract of land, and also all machinery, plant,

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boats, tools and other personal property used at or belonging to either or all of said quarantine stations.

48. The right, title and interest of this State to, and the jurisdiction of this State over, the following described lot or parcel of land are hereby granted and ceded to the United States of America, for the erection of a public building, to wit: That lot of land in the city of Sumter, County of Sumter, and State of South Carolina, situate on the southeastern corner of Main and Caldwell streets, of said city, fronting and measuring on said Main street one hundred and fifteen (115) feet, and on Caldwell street one hundred and thirty (130) feet, and bounded on the north by said Caldwell street; on the east by land of C. G. Rowland and others; on the south by land of C. G. Rowland and others; and on the west by said Main street: *Provided*, That there is hereby reserved to the State of South Carolina concurrent jurisdiction for the execution within and upon the premises hereby granted of all processes, civil or criminal, lawfully issued by the Courts of this State, not incompatible with this cession.

Lot of land
in Sumter.
1907, XXV.
638.

49. The right, title and interest of the State of South Carolina to, and the jurisdiction of this State over, the following described lot or parcel of land are hereby granted and ceded to the United States of America, for the erection of a public building, to wit: All that certain piece, parcel or lot of land, situate, lying and being in the city of Aiken, in the County and State aforesaid, beginning at the southwest corner of Park avenue and Laurens street, running thence southerly with the west line of Laurens street one hundred and forty (140) feet; thence westerly at right angles with Laurens street, one hundred and twenty (120) feet; thence northerly, parallel with Laurens street, one hundred (100) feet, more or less; thence easterly with Park avenue one hundred and twenty (120) feet, more or less, to the point of beginning. And has such forms, marks, courses and distances as is represented on a plat of the same, which is hereto attached, and made a part and parcel of this deed.

Lot of land
in Aiken.
1907, XXV.
638.

Exclusive jurisdiction in and over the said lot or parcel of land, when acquired as hereinafter provided by the United States, shall be ceded to the United States for the purposes mentioned, except the service upon such sites of all

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civil and criminal process of the Courts of this State; but the jurisdiction so ceded shall continue no longer than the United States shall own such piece of land.

The jurisdiction ceded shall not vest until the United States shall have acquired the title thereto, by purchase from its owner, and so long as the said lot or parcel of land shall remain the property of the United States when acquired as aforesaid, and no longer, the same shall be and continue exempt and exonerated from all State, County and municipal taxation, assessment, or other charges which may be levied or imposed under the authority of this State.

Preamble.

1907, XXV,
548.

50. I. Whereas, by and under the Act of the General Assembly of the State of South Carolina, entitled "An Act to grant to the City Council of Charleston and its successors the title and interest of the State to certain lands in Charleston County for the purposes of a Naval Station," and approved the 8th day of February, A. D. 1901 (23d Volume of the Statutes at Large of South Carolina, page 607), the right, title and interest of the State of South Carolina in and to the following described tract or parcel of land, and land covered with water, situated in the County of Charleston, in the State of South Carolina, was granted and ceded to the City Council of Charleston and its successors, to wit: "All that tract or parcel of land, and land covered with water, situate, lying and being on the west bank of the Cooper River, in the County of Charleston, in this State, measuring and containing seven hundred and sixty acres, more or less, butting and bounding to the north by lands of Mrs. W. W. Lawton, and by the Cooper River, on the east by the Cooper River, on the south by Ship Yark Creek, and on the west by Ship Yark Creek, as is delineated on a map of the city of Charleston and vicinity, made by J. H. Dingle, City Surveyor, December, 1900," and so forth:

And whereas, by virtue and in pursuance of and under the foregoing Act of the General Assembly of the State of South Carolina, and a Resolution unanimously adopted by the said the City Council of Charleston on the 14th day of May, A. D. 1901, and in consideration of the sum of one dollar, J. Adger Smyth, as Mayor of the city of Charleston, did (by deed, dated the 12th day of August, A. D. 1901, and recorded on the 14th day of August, A. D. 1901,

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in the office of the Register of Mesne Conveyances for the said County of Charleston, at page 247 of Book X 23) convey in fee simple unto the United States of America the above described tract or parcel of land, and land covered with water, for the uses and purposes and in accordance with the limitations set forth in the above recited Act for the General Assembly of the State of South Carolina—and *so forth*—as will more fully appear on reference to the said deed and plat and the said record thereof:

II. And whereas, by virtue and in pursuance of and under a Resolution unanimously adopted by the said City Council of Charleston on the 14th day of May, A. D. 1901, and in consideration of thirty-four thousand two hundred and six dollars, J. Adger Smyth, as Mayor of the city of Charleston, did (by deed, dated the 12th day of August, A. D. 1901, and recorded on the 14th day of August, A. D. 1901, in the office of the said Register of Mesne Conveyances, at p. 245 of Book X 23) also convey in fee simple unto the United States of America all the right, title, interest and estate of the said City Council of Charleston in and to “all that certain piece, parcel and tract of land, containing one hundred and seventy-one three one-hundredths (171 3-100) acres, bounded north by Noisette Creek, on the east by Cooper River, on the south by lands of Cecilia Lawton, and on the west by other lands belonging to the said city of Charleston. The piece, parcel and tract of land hereby conveyed constitutes a portion of ‘Chicora Park,’ and is specifically shown and designated on the plat of the same made by A. J. Menocal, Engineer, U. S. Navy, being wholly within the red lines laid down on the said plat”—*and so forth*—as will more fully appear on reference to the said last mentioned deed and plat and the said record thereof:

III. And whereas, in consideration of the sum of fifty thousand dollars, Cecilia Lawton did (by deed, dated the 12th day of August, A. D. 1901, and recorded on the 14th day of August, A. D. 1901, in the office of the said Register of Mesne Conveyances, at page 234, of Book X 23) also convey in fee simple unto the United States of America, “all that certain piece, parcel and tract of land situate, lying and being in the said County of Charleston and State aforesaid, on the west bank of the Cooper River, measuring and con-

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taining two hundred and fifty-eight and eleven one-hundredths (258 and 11-100) acres more or less, bounded on the north by lands of the said city of Charleston, known as 'Chicora Park,' on the east by Cooper River, on the south by land of Mappus, J. C. H. Claussen and the Old Clement's Ferry Road and a body of marsh land, and on the south by other lands of the said Cecilia Lawton; the land hereby conveyed being a portion of a certain plantation or tract of land conveyed to the said Cecilia Lawton by Gabriel E. Manigault, by his deed of conveyance bearing date the 2d of December, A. D. 1880, and having such courses, distances, metes, bounds and shape as is represented on a plat thereof made by A. J. Menocal, Engineer, United States Navy, and is fully delineated by and confined within the red lines of said plat, and including all the right, title and interest of the said Cecilia Lawton in and to the body of marsh land of ninety (90) acres more or less, which she, the said Cecilia Lawton, took by virtue of said conveyance to her by Gabriel Manigault, as well as any claim or interest she, the said Cecilia Lawton, may have or could have in and to any portion of a body of marsh land ceded by the State of South Carolina to the City Council of Charleston by the Act of the General Assembly, approved February 8th, A. D. 1901"—*and so forth*—as will more fully appear on reference to the said last mentioned deed and plat and the said record thereof:

IV. And whereas, in consideration of the sum of one thousand dollars, Maria D. Winthrop did (by deed, dated the 21st day of March, A. D. 1902, and recorded on the — day of —, A. D. 1902, in the office of the Register of Mesne Conveyances for the County of Berkeley, in the State of South Carolina, at page —, of Book —) also convey in fee simple unto the United States of America "All that piece, parcel or tract of marsh land, containing nine hundred and thirty-seven acres more or less, situate, lying and being in the Parish of St. Thomas, in the County of Berkeley and State aforesaid, on the east side of Cooper River, according to a survey made for the purpose of this conveyance by J. H. Dingle, Surveyor—the said land being bounded on the south and west by the said Cooper River, on the east by Clouter's Creek and Broad Creek, and on the north by a similar tract

A. D. 1912.

of marsh land, now the property of this grantor, and being the southernmost portion of a body of marsh land originally granted by the State of South Carolina to Charles Parker by its grant, dated November 3d, 1845"—and so forth—as will more fully appear on reference to the said last mentioned deed and plat and the said record thereof:

V. And whereas, by virtue and in pursuance of and under a resolution unanimously adopted by the said City Council of Charleston on the 12th day of July, A. D. 1902, and in consideration of the sum of nineteen thousand three hundred dollars, J. Adger Smyth, as Mayor of the city of Charleston, did (by deed, dated the 20th day of November, A. D. 1902, and recorded on the 21st day of November, A. D. 1902, in the office of the said Register of Mesne Conveyances for Charleston County, at page 30, of Book F 24) also convey in fee simple unto the United States of America, "All that certain piece, parcel and tract of land situate, lying and being in the County of Charleston, in the State of South Carolina, westward of and adjoining the United States Navy Yard, and containing ninety-six and one-half (96.5) acres more or less, and having such shape, metes, marks, bounds, dimensions and distances as is represented on a plat thereof made by J. W. G. Walker, Civil Engineer, United States Navy, on the 9th day of September, A. D. 1902"—and so forth—as will more fully appear on reference to the said last mentioned deed and plat and the said record thereof:

VI. And whereas, by virtue and in pursuance of and under the Act of Congress, entitled "An Act making appropriations for the naval service for the fiscal year ending June 30, 1904, and for other purposes," and approved March 3, 1903, and in consideration of the sum of eight dollars and thirty-nine cents, the United States of America, through the Secretary of the Navy of the United States, did (by deed, dated the 16th day of April, A. D. 1903, and recorded on the 20th day of April, A. D. 1903, in the office of the said Register of Mesne Conveyances for Charleston County, at page 156 of Book F 24) reconvey in fee simple unto the said the city of Charleston, "All that certain piece, parcel and tract of land, situate, lying and being in the said County of Charleston and State aforesaid, on the south

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bank of Noisette Creek, containing one thousand eight hundred and twenty-six and seven-tenths square feet more or less, and bounded as follows, that is to say: On the north by Noisette Creek, on the southeast by a line running in continuation of the northwestern boundary line of the present Naval Hospital tract from the point where said line intersects the western boundary line of the Navy Yard tract to said creek, on the southwest by the present western boundary line of the Navy Yard tract, from the point where said line is intersected by the northwestern boundary line of the Naval Hospital tract to said creek, as shown approximately on plat appended hereto"—and so forth—as will more fully appear on reference to the said last mentioned deed and plat and the said record thereof:

VII. And whereas, the State of South Carolina, in all cases in which grants of lands have been made by the State directly by and under Acts of her General Assembly unto the United States of America, hath also in such grants ceded to the United States of America the State's jurisdiction over the lands granted; therefore,

Jurisdiction
over certain
lands in Char-
leston Co.

1907, XXV,
548.

Jurisdiction
retained for
certain pur-
poses.

The jurisdiction and control of the State of South Carolina in and over the several above described pieces, parcels and tracts of land and land covered with water (less and other than the above described 1826.7 square feet, more or less, reconveyed by the United States of America to the State of South Carolina, on the 16th day of April, A. D. 1903, as aforesaid) are hereby granted and ceded to the United States of America: *Provided*, That such jurisdiction and control are hereby granted and ceded upon the express condition that the State of South Carolina retain and shall retain jurisdiction (concurrent with that of the United States of America hereunder) in and over the said pieces, parcels and tracts of land and land covered with water (less and other than the said 1826.7 square feet, more or less) so far as that civil process and writs in all cases not affecting the real and personal property of the United States of America, and any and all criminal or other process and writs lawfully issued in the name and under the authority of the State of South Carolina against any person or persons charged with crimes, felonies, or misdemeanors, committed against the peace and dignity of the State within and

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without the limits of the said pieces, parcels and tracts of land and land covered with water (less and other than the said 1826.7 square feet, more or less,) and not incompatible with the cession, may be executed at any and all times within the limits of the said pieces, parcels and tracts of land and land covered with water (less and other than the said 1826.7 square feet, more or less) in the same manner, and may as if no jurisdiction had been hereby granted and ceded.

The said pieces, parcels and tracts of land and land covered with water (less and other than the said 1826.7 square feet, more or less) so long as the same shall be and remain the property of the United States of America, and shall be used for the purposes for which they have been heretofore granted and conveyed as aforesaid, shall be and continue wholly exempt and exonerated from and of any and all taxes and assessments and other charges whatsoever which might otherwise be imposed by and under the authority of the State of South Carolina.

51. The consent of the State of South Carolina is hereby given, in accordance with the seventieth clause, eighth Section, of the first Article of the Constitution of the United States, to the acquisition by the United States, by purchase from the owner or owners of said land, of any land in this State required for sites for custom houses, courthouses, post-offices, arsenals, or other public buildings whatever, or for any other purposes of the Government.

Consent
given to U.
S. to acquire
lands.
1908, XXV,
1129.

Exclusive jurisdiction in and over any land so acquired by the United States shall be, and the same is hereby, ceded to the United States for all purposes, except that this State reserves the right of service upon such sites of all civil and criminal process of the Courts of this State; but the jurisdiction so ceded shall continue no longer than the said United States shall own such lands.

Exclusive
jurisdiction
over land ac-
quired ceded
to U. S.

The jurisdiction ceded shall not vest until the United States shall have acquired the title to said lands by purchase; and so long as the said lands shall remain the property of the United States when acquired as aforesaid, and no longer, the same shall be and continue exempt and exonerated from all State, County and municipal taxation,

Not to vest
until title ac-
quired.

A. D. 1912.

assessment, or other charges which may be levied imposed under the authority of this State.

Lands in
town of Moul-
trieville,
Charleston
County.

1908, XXV.
1180.

1909, XXVI.
180.

52. The right, title and interest of this State to and in, and the jurisdiction of this State over, the following described lands, situated in the town of Moultrieville, on Sullivan Island, in the county of Charleston, in this State, are hereby granted and ceded to the United States of America for the enlargement of the military reservations on said island, to wit: All those pieces or parcels or tract of land, lying, being, in the said town of Moultrieville, shown on a plan of Moultrieville compiled from official maps and surveys by H. S. Lamb, civil engineer, in April, 1902, and recorded July 15 1902, at page 189 of Plat Book D, in the office of the register of mesne conveyances for the said county of Charleston, comprising all the land lying to the westward of the United States government reservations at Old Fort Moultrie, and contained between these reservations on the east and the town lots Numbers 73, 74 and 77 on the west, embracing lots Numbers 78, 79 and 80, the town hall lot, portions of West Fort street, Main street and Middle street, and marsh lands to the north of lot 78, more particularly described as follows: Beginning at low-water mark in the cove on the north side of Sullivan's Island at the northwest corner of United States government reservation and extending approximately south 21 degrees, 35 minutes, west 1,170 feet, following the west line of said United States government reservation to the western corner of the same, to the north of Middle street; thence approximately south 52 degrees, 15 minutes, west 65 feet to the corner stone at the northwest corner of the Old Fort Moultrie reservation; thence following the boundaries of this reservation approximately south 17 degrees, west 126 feet to a corner stone, approximately north 75 degrees, west 82.4 feet to a corner stone, and approximately south 15 degrees, 30 minutes, west 580 feet to low-water line on the south or ocean side of Sullivan's Island; thence westward along the low-water line approximately 100 feet to the extension of the west line of West Fort street; thence along the west line of said West Fort street approximately north 12 degrees, 30 minutes, east 695 feet to the southeast corner of Lot 74; thence approximately south 77 degrees, 30 minutes, east 80.8 feet along Middle

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street to the eastern corner of the public square; thence approximately north 6 degrees, east 90 feet to the southeast corner of Lot No. 73 on West Fort street; thence along the west side of West Fort street and its extension northward approximately north 13 degrees, 30 minutes, east 1.030 feet to low-water mark on the cove or north side of Sullivan's Island; thence along low-water mark eastward to the original point of beginning: *Provided*, That the portions of the streets and avenues within the tract herein ceded shall be forever kept open as public streets; and this cession shall in no way interfere with the private rights of any franchise heretofore legally granted, with reference to Middle street and Central avenue: *And provided, further*, That there is hereby reserved to this State a concurrent jurisdiction for the execution upon or within said lands of all process, civil and criminal, lawfully issued by the Courts of this State, and not incompatible with this cession.

The grant hereinbefore made is upon condition that it shall not be effectual as to any portion of the premises embraced in the foregoing description, in or to which any person or persons have now any right, title or interest, or upon which any person or persons now own or have any buildings, structures or improvements, until the United States of America shall have compensated such person or persons for such right, title and interest, and for such buildings, structures and improvements, and shall have acquired the right, title and interest of such person or persons thereto or therein.

Condition of grant.

The streets and avenues between the east and west lines of the original reservation of Fort Moultrie, as said reservation existed on January 1, 1894, are hereby granted and ceded to the United States of America, subject to the same provisos and conditions as are contained in this sub-division.

Certain streets also ceded.

1909, XXVI, 180.

In case of the failure of the United States of America, and any person interested as aforesaid, or owner as aforesaid, to agree upon the proper compensation to be paid, as above provided, the United States of America be, and hereby is, authorized to have the same determined by the verdict of a jury, upon application by petition to the Court of Common Pleas of Charleston County, which Court shall have exclusive jurisdiction of the same, and which petition

Method of condemning.

A. D. 1912.

shall be served as by law a summons in a civil action in said Court is required to be served; and the said cause shall be heard, without delay, at a term of said Court, and under the direction of the presiding Judge thereof, and such determination shall be final and without appeal; and upon the amount so found being paid, with all costs of the proceedings (if any), the right, title and interest of such person or owner thereto and therein shall vest in the United States of America.

Land may be purchased by United States for arsenals and magazines.

Civ. '02, § 4.

Sec. 4. The United States, or such person or persons as may be by them authorized, shall have a right to purchase, in any part of this State that may be thought most eligible, the fee simple of any quantity of land, not exceeding two thousand acres, for the purpose of erecting arsenals and magazines thereon.

If parties cannot agree, land to be valued.

Civ. '02, § 5.

Sec. 5. If the person or persons whose land may be chosen for the above mentioned purpose, should not be disposed to sell the same, or if the persons appointed to make the purchase should not be able to agree upon terms with such owner or owners of the said land, the same shall be valued, upon oath, by a majority of persons to be appointed by the Court of Common Pleas of the County where such land is situated for that purpose; and the land shall be vested in the United States, upon their paying the amount of such valuation to the owner or owners of such land.

Concurrent jurisdiction retained by the State.

Civ. '02, § 6.

Sec. 6. The said land, when purchased, and every person and officer residing or employed thereon, whether in the service of the United States or not, shall be subject and liable to the government of this State, and the jurisdiction, laws, and authority thereof; that the United States shall exercise no more authority or power, within the limits of the said land, than they might have done before acquiring the same, or than may be necessary for the building, repairing, or internal government of the arsenals and magazines thereon to be erected, and the regulation and management of the same, and of the officers and persons by them to be employed in or about the same: *Provided, always,* That the said land shall forever be exempt from any taxes to be paid to this State.

A. D. 1912.

Sec. 7. Whenever it shall be made to appear to any one of the Circuit Courts of this State, upon the application of any authorized agent of the United States, that the said United States are desirous of purchasing any tract of land, and the right of way thereto, within the limits of this State, for the public uses of the said United States, and that the owner or owners of said lands are unknown, non-residents or minors, or from any other cause are incapable of making a perfect title to said lands; or in case the said owners, being residents and capable of conveying, shall, from disagreements in price, or any other cause whatever, refuse to convey the said lands to the United States, the presiding Judge of the said Court shall order notice of said application to be published in some newspaper nearest to where the said lands lie, also in one newspaper published in the city of Columbia, once in each week for the space of six weeks, which notice shall contain an accurate description of the said lands, together with the names of the owners or supposed owners, and shall require all persons interested in the said lands to come forward, on a day to be specified in said notice, and file their objections, if any they should have, to the proposed purchase; and at the time specified in said notice the said Court shall empanel a jury in the manner now provided by law, to assess the value of the said lands at their fair market value, and all damages sustained by the owners of the lands so appropriated by reason of such appropriation, which amount, when so assessed, together with the entire costs of said proceedings, shall be paid into the County Treasury of said County in which said proceedings are had; and thereupon the Sheriff of the said County, upon the production of the certificate of the Treasurer of said County that the said amount has been paid, shall execute to the United States, and deliver to their authorized agent, a deed of the said lands, reciting the proceedings in said cause, which said deed shall convey to the said United States a good and absolute title to the said lands against all persons whomsoever. The money so paid into the County Treasury shall there remain until ordered to be paid out by a Court of competent jurisdiction. The Judge directing the money to be paid to a County Treasurer, in accordance with the provisions of this Act, shall require

Land for
public uses of
U. S.Civ. '02, § 7;
1904, XXIV,
386.

A. D. 1912.

of such Treasurer a bond in double the amount of money so ordered to be paid by him, with two or more sufficient sureties, to be approved by said Judge. Said bonds shall be payable to the State of South Carolina, for the use and benefit of such persons, severally, as are entitled to said money. Said bond shall be executed and approved and filed with the Clerk of said Court before receiving said money. In all cases of publication of notice under this Section, the Court shall require the same proof as in cases of publication of notice in civil cases.

Submarine
sites for light-
houses and
other aids to
navigation.

Sec. 8. Whenever the United States desire to acquire title to land belonging to the State and covered by the navigable waters of the United States, within the limits thereof, for the site of a light-house, beacon, or other aid to navigation, and application is made by a duly authorized agent of the United States, describing the site required for one of the purposes aforesaid, then the Governor of the State is authorized and empowered to convey the title to the United States, and to cede to the said United States jurisdiction over the same: *Provided*, No single tract shall contain more than ten (10) acres, and that the State shall retain concurrent jurisdiction so far that all process, civil or criminal, issuing under the authority of the State, may be executed by the proper officers thereof upon any person or persons amenable to the same within the limits of land so ceded, in like manner and to like effect as if this Section had never been enacted. Any person or persons who shall moor any vessel, scow, boat, or raft, to any buoy, or beacon, or floating guide, placed by the United States Light House Board in the navigable waters of this State, or who shall, in any manner, make fast thereto any vessel, boat, scow, or raft, and any person or persons who shall wilfully destroy, injure, or remove any such beacon or guide, shall forfeit and pay a sum not exceeding one hundred dollars, or be imprisoned in the common jail not exceeding three months. Said forfeitures may be recovered by an action of tort, complaint, or indictment before any Court competent to try the same; one-half accruing to the informer or complainant, and the other half to the County in which the trial shall be had.

Civ. '02, § 8.

A. D. 1912.

Sec. 9. The jurisdiction of the State of South Carolina is hereby ceded to the United States of America over so much land as is necessary for the public purposes of the United States: *Provided*, That the jurisdiction hereby ceded shall not vest until the United States of America shall have acquired the title to the lands, by grant or deed, from the owner or owners thereof, and the evidences thereof shall have been recorded in the office, where, by law, the title to such land is recorded; and the United States of America are to retain such jurisdiction so long as such lands shall be used for the purposes aforementioned, and no longer; and such jurisdiction is granted upon the express condition that the State of South Carolina shall retain a concurrent jurisdiction with the United States in and over the said lands, so far as that civil process, in all cases not affecting the real or personal property of the United States, and such criminal or other process as shall issue under the authority of the State of South Carolina, against any person or persons charged with crimes or misdemeanors committed within or without the limits of the said lands, may be executed therein, in the same way and manner as if no jurisdiction had been thereby ceded.

Jurisdiction ceded to the United States over all lands acquired for public purposes. Jurisdiction not to vest until after acquisition of title from owners, and to be concurrent with State jurisdiction.

Civ. '02, § 9.

Sec. 10. All lands and tenements which may be granted, as aforesaid, to the United States, shall be and continue, so long as the same shall be used for the purposes in the last Section mentioned, exonerated and discharged from all taxes, assessments, and other charges which may be imposed under the authority of the State of South Carolina.

Lands exempt from State taxation.

Civ. '02, § 10.

Sec. 11. The consent of the State of South Carolina be, and is hereby, given to the acquisition by the United States, by purchase or gift, or by condemnation according to law, of such forest lands or such other property as it may acquire by purchase, or deed, or otherwise, in this State, as, in the opinion of the Federal Government, may be needed for the establishment of such national forest reserve in that region: *Provided*, That the State shall retain a concurrent jurisdiction with the United States in and over such lands so far that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission of any crime without

Consent given to acquisition of certain lands by the United States for establishment of a national forest reserve.

Civ. '02, § 11.

A. D. 1912.

or within said jurisdiction, may be executed thereon in like manner as if this Act had not been passed.

Powers given Congress.

Id.

Power is hereby conferred upon Congress to pass such laws as it may deem necessary to the acquisition, as hereinbefore provided for incorporation in said national forest reserve such forest-covered lands lying in the State as, in the opinion of the Federal Government, may be needed for this purpose: *Provided*, That the power of condemnation proceedings herein provided for shall not be applied to territory south of a line ten miles north of the Southern Railway from Charlotte to Atlanta: *And Provided, further*, That nothing herein contained shall be construed as giving the right to condemn any building, dwelling house or cultivated or pasture lands.

Power is hereby conferred upon Congress to pass such laws, and to make, or provide for the making, of such rules and regulations of both civil and criminal nature, and provide punishment for violation thereof, as, in its judgment, may be necessary for the management, control and protection of such lands as may be from time to time acquired by the United States under the provisions of this Act.

Assent of this State given to Act of Congress.

1909, XXVI, 122.

Sec. 12. The assent of this State is hereby given to the purposes and provisions of an Act of Congress entitled "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," approved March 16, 1906.

CHAPTER II.

The General Assembly.

ARTICLE 1. General provisions.

ARTICLE 2. Claims against the State.

ARTICLE 3. Introduction of measures for private purposes.

ARTICLE 4. Special provisions as to legislative enactments.

ARTICLE I.

GENERAL PROVISIONS.

SEC.

13. Apportionment of Representatives.
14. Oaths to be taken by members.
15. Compensation of members.
16. Stationery and postage of members.
17. Stationery for each House.
18. Fuel and gas for.
19. Officers elected by each House.
20. Officers and employees of each House.
21. Committee Clerks and Attachees.
22. Solicitors to attend sessions of and assist in preparation of Acts.

SEC.

23. Qualification for appointment of officers and attachees.
24. Compensation of officers and attachees.
25. List of such officers, etc., to be filed with Treasurer.
26. Pay certificates for members.
27. By whom signed.
28. Pay certificates of officers and employees.
29. Statement of certificate to be furnished Comptroller-General and Treasurer.

Section 13. The several Counties of this State shall be entitled to Representatives as follows:

Abbeville, 3; Aiken, 4; Anderson, 5; Bamberg, 2; Barnwell, 3; Beaufort, 3; Berkeley, 3; Calhoun, 1; Charleston, 8; Cherokee, 2; Chester, 3; Chesterfield, 2; Clarendon, 3; Colleton, 3; Darlington, 3; Dillon, 1; Dorchester, 1; Edgefield, 2; Fairfield, 3; Florence, 3; Georgetown, 2; Greenville, 5; Greenwood, 3; Hampton, 2; Horry, 2; Kershaw, 2; Lancaster, 2; Laurens, 3; Lee, 2; Lexington, 3; Marion, 2; Marlboro, 3; Newberry, 3; Oconee, 2; Orangeburg, 4; Pickens, 2; Richland, 4; Saluda, 2; Spartanburg, 6; Sumter, 3; Union, 2; Williamsburg, 3; York, 4: *Provided*, That in the event other Counties are hereafter established, then the

Apportionment of Representatives.

Civ. 1902,
§ 12: 1902
XXIII, 1197;
1908 XXV,
1283; 1910
XXVI, 867.

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General Assembly shall reapportion the Representatives between the Counties.

When Act
takes effect.

Representatives to the House of Representatives shall be elected from the several Counties of the State, in accordance with the provision of this Section at the general election to be held on Tuesday after the first Monday in November of the year 1902, and every second year thereafter, in such manner and at such place as now provided by law, or as the General Assembly may prescribe.

Oaths to be
taken by mem-
bers.

Civ. '02, § 13.

Sec. 14. All members elected to the General Assembly shall take the oath prescribed in Article III., Section 26, of the Constitution of the State, before entering upon the duties of their office.

Compensa-
tion of Mem-
bers of the
General As-
sembly.

Civ. '02, § 14;
1908 XXV,
1079.

Sec. 15. Members of the General Assembly shall receive as compensation for their services the sum of two hundred dollars for each regular session and mileage at the rate of five cents per mile for the actual distance traveled in the most direct route going to and returning from the place where the session of the General Assembly shall be held; and the Speaker of the House of Representatives shall receive a salary of one hundred dollars per session in addition to his compensation as a member.

Stationery
and postage
of members.

Civ. '02, § 15.

Sec. 16. The Clerk of the Senate shall, on the first day of each session, draw a pay certificate of five dollars in favor of each Senator, and the Clerk of the House of Representatives shall likewise, on the first day of each session, draw a pay certificate of five dollars in favor of each member of the House of Representatives, which shall be given in lieu of all stationery and postage to be used by such Senator or Representative in his official capacity during each session, and to be in addition to his per diem and mileage.

Stationery
for each
House.

Civ. '02, § 16.

Sec. 17. The Clerks of the Senate and of the House of Representatives shall each furnish for their Houses, respectively, for their use and for the use of their several Committees, such stationery as may be necessary for each session: the amount so to be furnished for the Senate not to exceed one hundred dollars; and that so furnished for the House of Representatives not to exceed one hundred and fifty dollars.

Fuel and gas
for.

Civ. '02, § 17.

Sec. 18. The Secretary of State shall furnish for the Senate and House of Representatives, and for their respec-

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tive Committee rooms, such supplies of fuel or coal and gas as may be necessary for their use at each session of the General Assembly: the amount for this purpose not to exceed the sum of eight hundred dollars.

Sec. 19. The Senate and House of Representatives, immediately after assembling in the session following a general election, shall each proceed to the election of a Clerk, to be known as the Clerk of the Senate and the Clerk of the House of Representatives, respectively, who shall each receive a salary of eight hundred dollars per annum.

Officers elect-
ed by each
House.

Civ. '02, § 18.

The Senate and House of Representatives shall also, at the same time, each for itself, elect a Reading Clerk, who shall each receive a salary of two hundred and fifty dollars, and a Sergeant-at-Arms, who shall receive a salary of two hundred dollars.

Provided, That in case of an extra session or sessions of the General Assembly, the Sergeant-at-Arms, Clerk, Assistant Clerk and Reading Clerk shall also receive the same mileage and per diem of a member of the General Assembly.

Extra ses-
sions of Leg-
islature.

The Senate and House of Representatives shall each elect annually, on the first day of the session, a Chaplain, who shall serve as such officer during the session, and shall receive a salary of fifty dollars during the session, to be paid in the same manner as the officers of the respective Houses are paid.

Sec. 20. There shall be appointed at the commencement of the first session of every term of the General Assembly, for the Senate, by the presiding officer of the Senate, the following Clerks and attaches: An Assistant Clerk; a Bill Clerk; a Journal Clerk; a Clerk to the Committee on Judiciary; a Clerk to the Committee on Finance; three Doorkeepers; two Laborers; one Porter; a Keeper of the President's room; two Pages; one Mail Carrier; and no others. In the House, by the Speaker of the House of Representatives: An Assistant Clerk; a Journal Clerk; one Bill Clerk; a Clerk to Committee on Ways and Means; a Clerk to Judiciary Committee; three Doorkeepers; four Pages; three Laborers; one Keeper of Speaker's room; two Porters; one Mail Carrier; and no others.

Number of
clerks and at-
taches of Sen-
ate and House
of Represent-
atives that
may be ap-
pointed.

Civ. '02, § 19.

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Certain
appointed
clerks and at-
taches to be
under control
of Sergeant-
at-Arms; sal-
aries of.

Civ. '02, § 20.

Sec. 21. The Bill Clerk, Doorkeepers, Laborers and Pages of each House shall be under the control and supervision of the Sergeant-at-Arms of the House to which he is appointed, and shall obey all reasonable orders made by him, and the salaries of the appointed Clerks and attaches of the General Assembly shall be as follows: Assistant Clerk of the Senate and of the House of Representatives, two hundred and fifty dollars, each; Journal Clerks, each, four dollars per day during the session of the General Assembly, and four dollars per day for each day's work after adjournment, not exceeding twenty days; Bill Clerks, each, four dollars per day.

In case of an extra session of the Legislature, the Assistant Clerks shall receive the same pay as members of the General Assembly.

Solicitors to
attend ses-
sions of and
assist in pre-
paration of
Acts.

Civ. '02, § 21.

Sec. 22. The Circuit Solicitors, or so many of them as are deemed necessary by the Attorney General, shall attend the sessions of the General Assembly, and shall, under his direction, assist the Attorney General in drawing and in supervising the engrossing of all Bills, and in the enrollment of all Acts and Joint Resolutions of each session; shall see that the work is done neatly, promptly, and correctly; and one of the said Solicitors shall certify upon each Act, before it is ratified, that it is correctly enrolled.

The Attorney General shall employ such clerical assistance, in drawing, engrossing, and enrolling Bills, Resolutions, and Acts, as he may deem necessary.

Qualification
for appoint-
ment of offi-
cers and at-
taches.

Civ. '02, § 22.

Sec. 23. No person, holding or exercising the duties of any office in this State, and no person not a permanent resident of this State, shall be eligible to election or appointment to any of the offices or positions provided for in this Chapter.

Compensation
of officers and
attaches.

Civ. '02, § 23.

Sec. 24. All persons elected or appointed under the provisions of this Chapter shall receive such compensation as the General Assembly shall determine; in no case to exceed the compensation of a member, except the Clerks of the Senate and of the House of Representatives, whose annual salary is provided for by law, and except also the Circuit Solicitors.

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Sec. 25. All officers making any of the appointments provided for in this Chapter shall forthwith, when each appointment is made, furnish a correct list thereof to the Clerks of the two Houses respectively; and a copy of the same, together with a list of the officers or attaches elected by the two Houses, shall be filed by the said Clerks with the Treasurer of the State.

List of such officers, etc., to be filed with Treasurer.

Civ. '02, § 24.

Sec. 26. The Clerks of the Senate and House of Representatives are authorized and directed to furnish each member of their respective bodies a pay certificate for the amount of his mileage and compensation, to include such dates as the General Assembly shall, by concurrent resolution, direct.

Pay certificates for members.

Civ. '02, § 25.

Sec. 27. Such certificates shall be certified by the President of the Senate, and attested by the Clerk of the Senate, for all members of that body, and by the Speaker of the House of Representatives, and by the Clerk of the same for all members of that body.

By whom signed.

Civ. '02, § 26.

Sec. 28. The subordinate officers and employees of the General Assembly shall, in like manner, be furnished with certificates of pay in such amounts as shall be fixed by that branch of the General Assembly to which such officers and employees shall respectively belong: *Provided, however,* That the pay certificates for services common to the two Houses shall be signed by the President of the Senate, and countersigned by the Speaker of the House of Representatives.

Pay certificates of officers and employees.

Civ. '02, § 27.

Sec. 29. The Clerks of the Senate and of the House of Representatives on the day of the final adjournment of every session of the General Assembly shall furnish to the Comptroller General and State Treasurer, each, a statement of all certificates issued in behalf of their respective Houses, which statements shall show the numbers of the certificates issued, the amount in each, and the person to whom issued, in the following order: 1, of members of the General Assembly; 2, of officers and attaches; 3, stationery certificates; 4, of contingent expenses.

Detailed statement of all certificates to be furnished to the Comptroller-General and Treasurer.

Civ. '02, § 28.

The Clerk of the Senate shall, in similar manner and at the same time, furnish the Comptroller General and the Treasurer, each, statements of all joint certificates issued on behalf of both Houses.

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ARTICLE II.

CLAIMS AGAINST THE STATE.

SEC.

80. How presented, considered
and passed.

SEC.

31. When barred.

How pre-
sented, con-
sidered and
passed by the
General As-
sembly.

Civ. '02, § 20.

Section 30. All claims for the refunding of overpaid taxes, or for repayment for services rendered or supplies furnished the State or any County, or for the payment of money on any account whatsoever, requiring the action of the General Assembly, shall be presented by petition, fully setting forth the facts upon which such claim is based, together with the evidence thereof, which petition shall be filed in the office of the Comptroller-General forty days before the meeting of the General Assembly; and it shall be the duty of the Comptroller-General to examine each such claim so presented and to report on the same during the first week of the meeting of the General Assembly, recommending payment in whole or in part, or rejection, in each instance, as in his judgment justice shall require, which report shall be acted upon as the two Houses, by joint rule, shall provide. No claim for the payment of money shall be introduced into either House except as herein provided.

After such claims have been reported upon, and passed by the General Assembly, they shall be delivered to the Committee of Ways and Means of the House of Representatives, who shall thereupon make provision for the payment thereof in the Appropriation Bill introduced by them.

When claims
against State
debarred pay-
ment.

Civ. '02, § 30.

Sec. 31. All claims against the State except the bonded debt of the State shall be forever barred unless presented within three years after the right to demand payment thereof accrues. And such claims shall also be forever barred if twice presented to the General Assembly or either branch thereof and rejected, or twice presented and withdrawn.

ARTICLE III.

INTRODUCTION OF MEASURES FOR PRIVATE PURPOSES.

SEC.

32. Must be by petition accompanied by draft of Bill or Joint Resolution; reference to committee.

33. Special matter to be set forth in petition.

34. Application for charter of railroad companies, etc., what must be stated; notice.

SEC.

35. Other cases, merits and particulars to be set forth; notice.

36. Bill to amend stock law entertained only upon petition of majority of freeholders.

Section 32. No Bill to charter or incorporate, or to amend the charter of any society, company, organization, or body politic of any kind, or for the granting of any privilege or immunity or for any other private purpose whatsoever, shall be introduced or entertained in either House of the General Assembly, except by petition, to be signed by the person or persons seeking to be incorporated, or by the incorporators or their officers, or duly appointed agents, seeking an amendment of a charter, or by the person or persons seeking such privilege, immunity or other private grant or relief. The petition must be accompanied in each instance by a draft of a Bill or Joint Resolution, as the case may be, to charter or incorporate such society, organization or body politic, or to amend the charter thereof, or to grant the privilege or immunity, or to carry out the private purpose prayed for in said petition; and, together with the said draft of the Bill or Joint Resolution, shall be referred to some appropriate Committee of the House in which such petition is presented, to be acted upon by such Committee as hereinafter provided.

Must be by petition, accompanied by draft of Bill or Joint Resolution; reference to Committee.

Civ. '02, § 32.

Sec. 33. In case of an application for a charter or incorporation, other than of a railroad or canal company, the petition shall state and set forth why the same cannot be obtained under the provisions of the General Statutes, in pursuance of the Constitution, relating to incorporations, and any other special reasons on which such charter or incorporation is sought.

Matters to be stated.

Civ. '02, § 32.

Sec. 34. In case of an application for the charter or incorporation of a railroad, canal, tramway, plank road or turnpike company, and the grant of the right of way therefor, in addition to the foregoing requirements of other

Application for railroads, canals, etc., to state route.

Civ. '02, § 33.

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Other roads
to be crossed.

Map.

Three months'
notice.In other
cases, merits
and particu-
lars.

Civ. '02, § 34.

Rights of
others.

Notice.

Petition
signed by
freeholders.
Bills to amend
Stock Law.

Civ. '02, § 35.

charters or incorporations, the petition shall set forth and describe approximately the route proposed for the said projected road, and state where the said route will cross any existing railroad or in the course of construction, and the said petition shall also be accompanied by a plat or map delineating the same: *Provided*, That in case of a railroad charter, the three months' notice required by law shall be given before the application for a charter is made.

Sec. 35. In any case other than that of a charter or incorporation, the petition shall set forth fully and distinctly the merits and particulars of the case, and if the same shall in any wise affect the rights of others directly who reside in this State, such petition shall be accompanied with proof that the parties, so far as known, who may be affected merely, have had sixty (60) days' notice of the presentation of such petition before such petition is presented, and also that notice of the intention of the petitioner or petitioners to make such application has been published in a newspaper having the largest circulation published in the County where the privilege or immunity is to be enjoyed, once a week for at least three weeks, the first of which particulars shall be at least sixty (60) days before such petition is presented.

Sec. 36. No Bill purporting to amend or alter the law regulating the fencing of stock in any portion of the State shall be considered unless the same be accompanied by a petition for such amendment or alteration signed by a majority of the freeholders of the section to be affected by such amendment.

ARTICLE IV.

SPECIAL PROVISION AS TO LEGISLATIVE ENACTMENTS.

Sec.

37. When they take effect.
38. Effect of repeal.

Sec.

39. Construction of words.

Time when
Legislative
enactments
take effect.

Civ. '02, § 36.

Section 37. No Act or Joint Resolution passed by the General Assembly shall take effect or become of force until the twentieth day after the day of its approval by the Executive, unless some other day be specially named in the body

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of the Act or Joint Resolution as the day upon which it shall take effect.

Sec. 38. The repeal of an Act or Joint Resolution shall not revive any law theretofore repealed or superseded, nor any office theretofore abolished.

Addison v. Sugette, 50 S. C., 192; 28 S. E., 948.

Sec. 39. The words "person" and "party" and other word or words importing the singular number, used in any Act or Joint Resolution, shall be held to include firms, companies, associations and corporations, and all words in the plural number shall apply to single individuals in all cases in which the spirit and intent of the Act or Joint Resolution may require it. All words in an Act or Joint Resolution importing the masculine gender shall apply to females also, and all words importing the present tense shall apply to the future also.

Effect of Re-
peal of Act.
Civ. '02, § 37.

Construction
of words.
Civ. '02, § 38.

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CHAPTER III.

The Public Printing.

Sec.

40. State Printer; how elected; term of office.
41. Bond of.
42. Vacancy; how filled.
43. How laws, Journals, Reports, etc., to be printed.
44. Reports; how printed.
45. Standard of measurement.
46. Contents of Reports.
47. How Bills and Joint Resolutions printed.
48. Publication of Acts, etc., regulated.
49. Printer to set work compactly.
50. His bills; how verified and approved.
51. One Report not to be reprinted in another.
52. Manuscript for printer; size of sheets.

Sec.

53. State Board of Health; printing and publication; how paid for.
54. Departments, etc., report cost of printing to Comptroller-General to be embraced in his Annual Report.
55. How, and by whom, faithful execution of printing for each House certified, etc.
56. Indexing and making marginal notes to Acts and Joint Resolutions, by whom done and allowance therefor; general and special laws; how arranged for publication.
57. Public printing; how paid for.

Public printing regulated; Printer, how elected, term of office, etc.

Civ. '02, § 89.

Section 40. The Clerk of the Senate and the Clerk of the House of Representatives (or in case of death or disability of either, the survivor of them) shall immediately upon the approval of this Act, and thereafter on the first day of every alternate regular session of the General Assembly, commencing with the regular session of the year 1900, cause to be published for the period of ten days, in one daily paper in each of the cities of Charleston, Columbia and Greenville, a call for sealed proposals to do the public printing for the General Assembly and for the several State officers, as follows: 200 copies per day Senate Calendar, at a price not to exceed 90 cents per page; 200 copies per day House Calendar, at a price not to exceed 90 cents per page; 200 copies per day Senate Journal, at a price not to exceed 90 cents per page; 200 copies per day House Journal, at a price not to exceed 90 cents per page; 50 copies per day Senate Resolutions, at a price not to exceed 72 cents per page; 150 copies per day House Resolutions, at a price not to exceed 72 cents per page; 50 copies per day Senate Bills, at a price not to exceed \$1.10 per page; 150 copies per day House Bills, at a

price not to exceed \$1.18 per page; 1,500 copies of Governor's Message, at a price not to exceed 68 cents per page; 600 copies Report of Comptroller General at a price not to exceed 90 cents per page; 300 copies reports of other State officials, at a price not to exceed 84 cents per page; 2,500 copies Acts and Joint Resolutions, at a price not to exceed \$3.50 per page; 500 copies Senate Journal, at a price not to exceed 92 cents per page; 500 copies House Journal, at a price not to exceed 92 cents per page; 500 copies Reports and Resolutions, at a price not to exceed 74 cents per page; rule and figure work a price and two-fifths; and all other works not embraced in the above schedule to be done at figures corresponding to those which shall be accepted under the contract awarded. The proposals shall state at what price per page the bidder will execute the several classes of work, respectively, and what additional charge per page he will make for rule and figure work. The clerks of the two houses shall furnish bidders with specifications of the different classes of printing to be done. Proposals for the public printing, enclosed in an envelope, sealed with wax, and endorsed "Proposal for the public printing," shall be filed with the Secretary of State within the ten days of the advertisement for proposals; and said proposals shall be opened by the Chairman of the Committee on Printing of each House, in the presence of said committees jointly; and the contract shall be awarded by said Committee on Printing, on the last day of the session, to the lowest responsible bidder. Said award subject to the approval of the Senate and House of Representatives.

Sec. 41. The party to whom the contract for the public printing shall be awarded shall on or before the first day of July next after such award give bond, with sufficient sureties, in the sum of ten thousand dollars, for the faithful performance of the work; said bond to be approved by the Governor, the Attorney General and the State Treasurer.

Bond of Public Printer.
Civ. '02. § 40.

Sec. 42. If by reason of death or any other cause the party to whom the contract for public printing shall have been awarded shall fail to undertake the work thereunder or shall fail to give bond in due time, it shall be the duty of the Governor, the Comptroller General, the Attorney General and the Secretary of State, acting as Commis-

Vacancy,
How filled.
Civ. '02. § 41.

sioners of Public Printing, to call for proposals for said printing, and to award the contract therefor to the lowest responsible bidder, subject to all the conditions and regulations hereinbefore set forth.

How laws,
etc., are to be
printed.

Civ. '02, § 42.

Sec. 43. The laws, journals and all other printing in book form, shall be set in long primer type, in pages to contain at least one thousand seven hundred ems each. All rule and figure work accompanying the Acts, Journals and Reports and Resolutions, to be in the same type as the body of the work; the side and foot notes to be in minion or nonpareil type, and the indexes to be in brevier or long primer type.

In what
manner re-
ports shall be
printed.

Civ. '02, § 43.

Sec. 44. Heads of departments and other officials having reports to make to the General Assembly shall not hereafter have the right or authority to designate to the Public Printer the particular type in which each part of their report is to be printed or the manner in which it is to be set up, but the said Printer shall be required to set up and print all such reports in as cheap a manner as is consistent with the public welfare, and the compensation therefor shall be on the basis of the long primer page of not less than one thousand seven hundred ems.

Standard of
measurement.

Civ. '02, § 44.

Sec. 45. When any part of the said report is set in other than the long primer type, the compensation therefor shall be determined by the relation which the types bear to each other, the work being counted for as many pages as one thousand seven hundred is contained in the number of ems of the type used.

Contents of
Reports.

Civ. '02, § 45.

Sec. 46. Heads of the various departments and boards in making their reports shall only give statistical matter and their recommendations in as brief form as possible, and the Railroad Commissioners shall not print the general correspondence of their office, railroad schedules, classification of freight, freight or passenger rates, but shall make their report in as concise and brief manner as may be compatible with the public welfare.

Bills and
Joint Resolu-
tions; how
printed.

Civ. '02, § 46.

Sec. 47. Bills and Joint Resolutions of the two Houses shall be printed in pica type, each line slugged or regletted to the space of one line pica type, printed in pages of thirty-six ems of pica type in width and fifty-eight ems of pica

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type in length, including the folio and foot line, the lines to be numbered according to Sections.

Sec. 48. Acts and Joint Resolutions of the General Assembly of this State shall be published without other head lines than the title of the Act or Joint Resolution, and nothing shall be appended after the last section thereof except the date of the Governor's approval. Not more than one inch of space shall be allowed between the ending of one Act or Joint Resolution and the beginning of the next Act or Joint Resolution (except where an Act or Joint Resolution ends within two inches of the bottom of the page); and there shall be no charge by, or payment to, the State Printer for any unnecessary fat in the publication of said Acts and Joint Resolutions.

Acts and Joint Resolutions; how printed.
Civ. '02, § 47.

No pay for fat.

In the publication of the Reports of the various officers required by law, there shall be no additional title pages nor any blank pages after the title page, unless such blank pages shall be necessary, from the insertion of a tabular statement which cannot be published upon the regular pages of Report and is folded within such Report. All matter included in such Reports, whether reading or figures or tabulated, shall be compactly published, with no more intervening space than is necessary for the character of the work directed to be done, and no page shall be taken up by a mere statement of the Report which is to follow. No unnecessary fat shall be allowed in publishing these Reports.

Printing of official Reports regulated.

Compactly published.

Sec. 49. The Public Printer shall, in publishing or printing any other kinds of State work, of whatsoever character, set the same as compactly and within as little space as the character of the work will permit.

Public Printer to set work compactly.
Civ. '02, § 48.

Sec. 50. The Public Printer shall, with each bill rendered by him for public printing, upon oath certify that the provisions of this Act have been complied with in such work; and no such bill shall be paid until the work has been done, and a copy thereof filed with and examined by the Comptroller General, and his approval of the work and of the amount of the account endorsed on such bill, except bills for the current printing of the two Houses, which shall be

Public Printer to verify bills.
Civ. '02, § 49.

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And Comptroller-General to approve.

likewise examined and approved by the respective Clerks of the two houses, upon sworn accounts filed with them, before such bills shall be paid.

One Report not to be embraced in other.

Civ. '02, § 50.

Sec. 51. No State officer shall embrace in his Report the Report of another State officer which is required to be published by law, but he may make such reference thereto as may be necessary, to embrace a brief recapitulation thereof, when necessary to the proper understanding of such Report.

Size of paper for Reports.

Civ. '02, § 51.

Sec. 52. In preparing the manuscript for the Public Printer, the State officers and Superintendents of public institutions shall use sheets of paper eight by ten inches in size, or legal cap, arranging it in such shape as will have due regard to the contents of the printed page.

Printing for State Board of Health.

Civ. '02, § 52.

Sec. 53. All printing done on Reports published by the State Board of Health shall be paid for out of funds appropriated to or belonging to that Department, and not otherwise.

Annual Report.

Civ. '03, § 53.

Sec. 54. Each Department of the State Government, or person required by law to have printing done at the public expense, shall report annually to the Comptroller General the cost of such printing so done by such Department or persons, and such amounts consolidated into one table shall be included in the Annual Report of the Comptroller General.

To be tabulated by Comptroller-General.

Certificate as to printing for each House.

Civ. '02, § 54.

Sec. 55. The faithful performance of the printing for each House shall be certified by their respective presiding officers and clerks: *Provided*, That in the absence of said officers from the seat of government, the Secretary of State, to whom the work may be delivered, shall certify to its proper execution: *Provided, further*, That a specimen copy of each class of work, with the accounts of the same verified by affidavit, be filed in the office of the Comptroller General.

The Clerks of the two Houses shall furnish the Printer corrected journals daily for the permanent printing.

Indexing and making marginal notes to Acts and Joint Resolutions, by whom done and allowance therefor; general and special laws, how arranged for publication.

Civ. '02, § 55.

Sec. 56. The indexing and making marginal notes of Acts and Joint Resolutions shall be performed by the Code Commissioner. It shall be the duty of the editor or editors charged with the preparation of the Acts and Joint Resolutions for publication, in addition to indexing and making marginal notes thereof, to arrange the same for the Printer according to the subject matter thereof, so that all general

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Laws and Joint Resolutions shall be collected and bound together separately in the first part of the volume, and be entitled "General Laws and Joint Resolutions;" and all Acts relating to matters other than public shall be collected and bound together in the latter part of the volume, and be entitled "Special Acts and Joint Resolutions," and also to index the same in one index. And all local Acts and Joint Resolutions shall be arranged according to Counties in alphabetical order.

Whenever an Act or Joint Resolution of a previous session Cross reference in margin. is amended, repealed or referred to, a reference shall be made in the margin to the volume and page of the Statutes at Large where such Act or Joint Resolution is to be found.

There shall be printed in alphabetical order as an appendix to the Acts and Joint Resolutions of every regular session List of charters; how printed. the list of charters granted by the Secretary of State for the then next preceding fiscal year, such list to be printed in the same type as the body of the Acts, embracing only the name of the corporation in small caps, to be followed in lower case, and without paragraphs, with the location and purpose of the corporation, amount of authorized capital stock and date of charter.

Sec. 57. The Comptroller General is hereby authorized Public printing; how paid for. and directed to draw his warrant, and the State Treasurer Civ. '02, § 56. to pay the same out of any moneys in the State Treasury not otherwise appropriated, for the public printing, upon the production of proper vouchers, which shall consist of copies of the temporary printing executed, and signatures of the permanent printing as the work progresses.

In no fiscal year shall the Comptroller General draw his warrants or the State Treasurer pay same for an aggregate Appropriation; not to be exceeded. amount for printing in excess of the sum of twenty thousand dollars unless a larger amount has been appropriated, in which case such warrants shall not exceed the appropriation.

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CHAPTER IV.

The Statutes.

Sec.

58. To provide for binding laws, etc., for distribution and exchange.

59. To deliver permanent work to State Librarian for distribution.

60. Distribution of Acts.

Sec.

61. To whom distributed.

62. Revised Statutes and Code ; how amended.

63. Code Commissioner to be elected.

64. Duties of Code Commissioner.

65. Preparation of Code.

To provide
for binding of
Laws, Jour-
nals, etc.

Civ. '02, § 57.

Section 58. A sufficient number of the Journals, Reports and Acts of the General Assembly, for the use of the members of the General Assembly, and for the State Librarian to make the exchanges with other States, shall be bound in a good and substantial manner; and the Clerk of the Senate and the Clerk of the House of Representatives are authorized to have the same done immediately upon the close of the session, or as soon thereafter as practicable.

To deliver
permanent
work to State
Librarian,
who shall dis-
tribute to per-
sons entitled
by law to re-
ceive copies.

Civ. '02, § 58.

Sec. 59. On the completion of the permanent work, they shall deliver the same to the State Librarian, who shall forward, by mail or otherwise, as he may deem expedient, a copy thereof to each of the members of the General Assembly, and a copy of the Acts and Joint Resolutions to the different States, institutions, and officers entitled by law to receive the same.

When to be
printed.

Civ. '02, § 59.

Sec. 60. The Acts of each session of the General Assembly of this State shall be printed, bound and delivered to the keeper of the Legislative Library, ready for distribution, within thirty days from the adjournment *sine die* of each of its several sessions, whether annual or extra, and the said keeper of the Legislative Library shall within five days thereafter deposit in the mail or express one or more copies thereof, addressed to each officer, person or corporation as now provided by law, and as hereinafter prescribed.

And distrib-
uted.How Acts
and Resolu-
tions should
be distributed.Civ. '02, §
60 : 1902
XXIII, 964.

Sec. 61. Copies of the Acts and Joint Resolutions shall be distributed as follows:

1. To the Legislative Council of the Province of Quebec, Canada, one copy.
2. To each Circuit Judge, one copy.

3. To each Solicitor, one copy.
4. To each Clerk of Court, one copy.
5. To each Judge of Probate, one copy.
6. To each County Sheriff, one copy.
7. To each County Auditor, one copy.
8. To each County Treasurer, one copy.
9. To each County Superintendent of Education, one copy.
10. To each County Supervisor, one copy.
11. To the Supreme Court at Columbia, one copy.
12. To each Magistrate in the State, one copy.
13. To each of the chartered Colleges of the State, one copy.
14. To the Library of the Legislature, one hundred and fifty copies.
15. To the University of South Carolina, two copies.
16. To the Charleston Library, two copies.
17. To the Governor of each State of the Union, for the use of the State, one copy.
18. To the Legislature of each State, one copy.
19. To the Library of Congress, two copies.
20. To heads of Departments at Washington, for the use of their Departments, one copy.
21. To the Historical Society of New York, one copy.
22. To the Athenæum, Philadelphia, one copy.
23. To the Library of Harvard University, Cambridge, one copy.
24. To the Yale College Library, one copy.
25. To the Libraries of the University of Virginia and Alabama, one copy each.
26. To the Colleges at Athens, Ga., Princeton, and Chapel Hill, N. C., one copy each.
27. To the Athenæum, Boston, one copy.
28. To the Committee of Public Records, London, one copy.
29. To the London Museum, one copy.
30. To the King's Library, in Paris, one copy.
31. To the University Library at Heidelberg, one copy.
32. To the Royal Library at Berlin, one copy.
33. To the University Library at Gottingen, one copy.

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34. To the Historical Societies of South Carolina, Maryland, Virginia and Pennsylvania, each one copy.

35. To each Master, one copy.

36. To the University of the South, Sewanee, Tenn., one copy.

Amendments
may be made
by reference
to Revised
Statutes or
this Code.

Civ. '02, § 61.

Sec. 62. Whenever in any Act heretofore or hereafter passed reference is made to the Revised Statutes or this Code for the purpose of altering, amending, adding to or repealing any part thereof, such reference, alteration, amendment, addition or repeal shall be construed to apply to the original law purporting to be revised in said revision as fully and specifically as though such original law were mentioned in the Act containing such reference, alteration, amendments, addition or repeal.

Code Com-
missioner to
be elected;
term; salary.

Civ. '02, § 62.

Sec. 63. A Code Commissioner shall be elected by the General Assembly of 1911, for a term of ten years and his salary shall be four hundred dollars per annum, payable quarterly, by the State Treasurer on the warrant of the Comptroller General: *Provided*, That the Code Commissioner elected at the session of the General Assembly for 1901 shall hold office for a term of ten years and shall receive a salary of five hundred dollars for the fiscal year, commencing January 1, 1901, and thereafter annually until the expiration of the term of his office a salary of four hundred dollars, to be paid quarterly by the State Treasurer upon the warrant of the Comptroller General. In case of a vacancy from any cause, the General Assembly shall as early as practicable elect a Code Commissioner for the unexpired term.

Duties.
To revise Re-
port of pre-
decessor, etc.

Civ. '02, § 63.

Sec. 64. It shall be the duty of said Code Commissioner, immediately after his election, to examine the report made by his predecessor in office to the General Assembly and, if any, correct all errors appearing in the revision submitted with said report; supply all omissions; omit redundant and obsolete enactments, and such as have no influence on existing rights and remedies; and to reduce the public statutes of this State, inclusive of such as are passed at the present session, into as concise and comprehensive a form as is consistent with clear expression of the will of the General Assembly; and, in addition thereto, he shall prepare indices and cross indices to said codification, publish-

Index same.

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ing the same in the appropriate volume as hereinafter provided, note by annotation the decisions of the Supreme Court of the State of South Carolina under the different Sections of the Statutes codified as herein provided, and also of the Constitution of 1895 of said State, and rules of Court as herein provided to be published; annex to the volume containing the general laws a list of all general public statutes repealed since the enactment of the General Statutes of 1882, giving the title, and date of approval, of the repealing Statute; and he shall annually prepare for publication, as soon after the adjournment of the General Assembly as practicable, the Statutes and Joint Resolutions passed at the preceding session, dividing the same into such as may be of a general and permanent kind and such as may be local and of temporary nature, with a correct index and cross index of same; and that he also publish with such statutes, alphabetically arranged and with date of granting same, a list of all charters granted by the Secretary of State. He shall annually report to the General Assembly, at each session, all changes made in the Statute law embraced in the Code at its previous session, together with a note of or reference to the decisions of the Supreme Court, on the Sections of said Code published during the current year, said report to be annually published by the State Printer in such form as the Code Commissioner may prescribe.

Annotate same.

How published.

To prepare Acts for publication.

Annual Report.

Sec. 65. The Code Commissioner shall collect and revise all the General Statute law of the State now of force, as well as that which shall be passed from time to time, and to properly index and arrange the said Statutes when so passed. He shall also reduce into a systematic Code the General Statutes, including the Code of Civil Procedure, with all the amendments thereto, and shall on the first day of the session for the year nineteen hundred and eleven, and at the end of every subsequent period of ten years, report the result of his labors to the General Assembly, with such recommendations and suggestions as to the abridgement and amendments as may be deemed necessary and proper. The said report, when ready to be made, shall be printed and laid on the desks of the members of both houses of the General Assembly on the first day of the first session, but

Decennial Report.

Civ. '02, § 64.

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shall not be taken up for consideration until the next session of the General Assembly.

Code, how
declared law.

Id.; Const.
Art. VI, § 5.

The Code thus prepared by the Commissioner shall be declared by the General Assembly, in an Act passed according to the forms in the Constitution of 1895 for the enactment of laws, to be the only general statutory law of the State, and no alterations or additions to any of the laws therein contained shall be made except by Bill passed under the formalities required in the said Constitution.

CHAPTER V.

Reports and Documents and Committees to Examine State Offices and Penal and Charitable Institutions.

SEC.

66. Time for making reports to General Assembly.
67. When reports must be handed the Printer, and when he must have them ready for the General Assembly.
68. Persons disbursing public money must publish.
69. Persons having the distribution of the public money must report annually to Comptroller-General.
70. Public officers having evidences of indebtedness to the State must report to the Comptroller-General.
71. Comptroller-General to make report to General Assembly of all debts due the State.
72. Secretary of State to report to General Assembly all corporations formed under general corporation Act.
73. Annual report of State Superintendent of Education.
74. State Superintendent to consolidate reports of County Superintendents and forward them to General Assembly.
75. Annual report of Directors of the State Penitentiary.
76. Annual report of Attorney-General.

SEC.

77. Annual report of Regents of the State Hospital for the Insane.
78. Commissioners of the Deaf and Dumb and the Blind to report annually.
79. Accounts of Treasurer to be examined in January and February annually by Joint Committee of Senate and House.
80. Duties of Committee, and report.
81. When to make examination.
82. Committee to examine books of penal and charitable institutions.
83. Committee to examine expenditures of educational institutions.
84. Committee to examine into work of Code Commissioner.
85. Census Commission.
86. Commissioners of Sinking Fund to make annual report.
87. Railroad Commissioners to make annual report.
88. County Commissioners to report in detail annually; penalty.
89. Health officers to keep records and report monthly.

Section 66. The Comptroller General and all other officers required by law to report annually to the General Assembly shall make such report on or before the twentieth day of January in each year.

Time for making reports to General Assembly.

Civ. '02, § 65.

Sec. 67. All State officers are required to place their Reports in the Printer's hands by the tenth day of January, except the Comptroller General and State Treasurer, who shall place their reports in the Printer's hands on the twentieth day of January, and the Printer is required to have Reports printed and ready for delivery on the day of the

When Reports to be handed to Printer.

Civ. '02, § 66.

When to be printed.

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Forfeiture.

meeting of the General Assembly, and on his failure to have such Reports ready he shall forfeit five dollars (\$5.00) per day on each Report delayed: *Provided*, That the Public Printer shall not be subject to said forfeiture when the State officers do not place their Reports in the Printer's hands on the day required.

Persons disbursing public money must publish.

Civ. '02, § 67.

Sec. 68. Every person authorized to disburse any funds for the State shall publish in some newspaper of general circulation in the County in which such disbursement is authorized to be made, a monthly statement of all funds received and the date of such receipt, and of all funds paid out, to whom, and on what account.

Persons having distribution of public money must report quarterly to Comptroller - General.

Civ. '02, § 68.

Sec. 69. All persons having the distribution of public money shall quarterly, to wit, on the last days of October, January, April and July, in each and every year, render to the Comptroller General an account setting forth the funds committed to them, respectively, and the disbursement of them.

Public officers having evidences of indebtedness to State must report to Comptroller-General.

Civ. '02, § 69.

Sec. 70. All public officers having in their possession the evidences of any debts due to the State shall, on the last day of December in every year, furnish the Comptroller General with a statement of all such debts, showing the names of the debtors, the amounts of the debts, the interest, the payments made, and the balance due to the State. And in case of failure on the part of any public officer to furnish the Comptroller with the statement aforesaid, he shall forfeit and pay the sum of two hundred dollars, to be recovered in any Court having competent jurisdiction.

Comptroller-General to make report to General Assembly of all debts due State.

Civ. '02, § 70.

Sec. 71. The Comptroller General shall make a statement of all debts due the State and lay it before the General Assembly with his Annual Report.

Sec. 72. The Secretary of State shall annually prepare, cause to be printed, and submit to the General Assembly a true abstract from the certificates deposited with him by corporations formed under the law regulating the formation of corporations. Said abstract shall contain, under proper headings, the corporate name of said corporation, the date of its charter, the purposes for which it was incorporated, the names of its corporators, its location and amount of capital stock, together with such remarks as he may deem necessary; said abstract shall be published as an appendix

Secretary of State to report to General Assembly abstract of corporations formed under general laws.

Civ. '02, § 71.

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to the Acts and Joint Resolutions of the session of the Legislature to which such abstract is submitted, and the names of all corporations therein contained shall be included in the index to the said Acts and Joint Resolutions.

Sec. 73. The State Superintendent of Education shall make his report through the Governor to the General Assembly at each regular session thereof in the manner required by law.

Annual Report of State Superintendent of Education.

Civ. '02, § 72.

Sec. 74. It shall be the duty of the State Superintendent of Education to consolidate the reports received from the County Superintendents of Education, and to forward them to the General Assembly at its next regular session.

State Superintendent to consolidate reports of County Superintendents and forward them to General Assembly.

Civ. '02, § 73.

Sec. 75. The Directors of the State Penitentiary shall make an annual report to the Governor, on or before the first day of January in each year, of the state and condition of the prison, the convicts confined therein, of the money expended and received, and, generally, of all the proceedings during the last year, to be laid before the General Assembly.

Annual report of Directors of the State Penitentiary.

Civ. '02, § 74.

Sec. 76. The Attorney General shall annually make a report to the General Assembly of the cases argued, tried, or conducted by him in the Supreme Court and Circuit Courts during the preceding year, with such other information in relation to the criminal laws, and such observations and statements, as, in his opinion, the criminal jurisdiction and the proper and economical administration of the criminal law warrant and require.

Annual report of Attorney-General.

Civ. '02, § 76.

Sec. 77. It shall be the duty of the Regents of the State Hospital for the Insane to report annually to the Legislature the state and condition of the institution, fully and particularly; and they shall also annually report to the Comptroller-General the amount of income of said institution, and the amount of expenditures, and the items thereof.

Annual report of Regents of the State Hospital for the Insane.

Civ. '02, § 77.

Sec. 78. The Commissioners of the Deaf and Dumb and the Blind shall annually report to the Legislature an exact statement of their various proceedings during the past year, showing precisely how they disbursed the money expended, the names of the persons who have received the bounty, the ages and places of residence of such persons, and information as to their progress, which statement shall be accompanied by the vouchers of all sums expended.

Commissioners of the Deaf and Dumb and the Blind to report annually.

Civ. '02, § 77.

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Accounts of
Treasurer to
be examined
in January
and February
annually, by
Joint Com-
mittee of Sen-
ate and House.

Civ. '02, § 78.

Sec. 79. The accounts of the Treasurer of the State shall be, annually, closed on the thirtieth day of December, and shall be examined during the months of January and February in each year, by a Joint Committee, consisting of one member of the Senate and two of the House of Representatives, to be appointed by a Concurrent Resolution of the two Houses of the General Assembly, at the session previous to said time of examination in each year.

Examination
of Treasurer's
books; how
made.

Civ. '02, § 79.
1b.

Sec. 80. Such Committee shall examine the accounts, the vouchers relating to all moneys received into and paid out of the Treasury during the year ending on the thirtieth of December preceding such examination, and shall certify and report to the General Assembly at its next session after the said thirtieth day of December the amount of moneys received into the Treasury during such year; the amount of moneys paid out of it during the same period by virtue of warrants drawn on the Treasury by the Comptroller-General or any other officer; the amount of moneys received by the Treasurer who shall be in office at the time of such examination when he entered upon the exercise of the duties of his office; and the balance in the Treasury on the thirtieth day of December preceding such examination. They shall also report as to the operations of the Commissioners of the Sinking Fund, including the moneys received and disbursements made by them.

Examination
of accounts of
certain State
officers.

Civ. '02, § 80.

Sec. 81. The Joint Committee of the General Assembly, the duty of which is to examine the accounts of the State Treasurer, Comptroller-General and the Commissioners of the Sinking Fund, shall begin the examination of said accounts as soon as practicable after the end of each quarter of the year.

Committee to
examine books
of penal and
charitable in-
stitutions;
when and how
appointed.

Civ. '02, § 81.

Sec. 82. The accounts, vouchers and books of the penal and charitable institutions shall be examined during the month of December of each year by a Joint Committee of one Senator, who shall be recommended by the Senate Committee on Charitable Institutions, and two members of the House of Representatives, who shall be recommended by the House Committee on State Hospital for the Insane, to be appointed by a Concurrent Resolution of the two houses of the General Assembly at the session previous to said time of examination in each year.

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The said Committee shall examine the accounts, the vouchers relating to all moneys received into and paid out during the preceding year and the books of said institutions, and shall certify and report to the General Assembly at its next session, after the said examination is made, the amount of money paid out during the year, and any other matters relating to the management of said institutions.

Duties of Committee.

Sec. 83. The presiding officers of the Senate and House of Representatives shall annually appoint a committee, consisting of two members of the House of Representatives and one of the Senate, whose duty it shall be to examine in December of each year into the expenditure of all sums of money used for the maintenance and support of the State educational institutions of the State and the physical conditions of such institutions, and to report their finding to the General Assembly next after their appointment, together with any suggestions looking to the efficiency of such institutions or any of them.

Legislative Committee to examine into expenditure of appropriations, State educational institutions.

1902 XXIII, 965.

Each member of said committee shall receive as compensation for their services the same per diem and mileage as now allowed by law to the members of the General Assembly: *Provided*, That no per diem shall be allowed to members of said committee for more than twenty days.

Sec. 84. At each session of the General Assembly a Joint Committee consisting of three members shall be appointed, whose duty it shall be to inquire into the progress of the Code Commissioner in the work and to make a report to the two Houses.

Work of Code Commissioner to be examined.

Civ. '02, § 82.

Sec. 85. When the census takers shall have made returns, the Secretary of State shall forthwith report the results of such registration to the Governor of the State for the time being, and shall make a collated return of the statistics to the General Assembly, at its next regular session.

Census Commission.

Civ. '02, § 83.

Sec. 86. The Commissioners of the Sinking Fund shall annually report to the General Assembly the condition of the Sinking Fund, and all sales or other transactions connected therewith.

Commissioners of Sinking Fund to make annual report.

Civ. '02, § 85.

Sec. 87. The Railroad Commissioners shall make an annual report to the Legislature of their official acts, including such statements, facts and explanations as will disclose the actual working of the system of railroad transportation

Railroad Commissioners shall make annual report to the Legislature.

Civ. '02, § 85.

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in its bearing upon the business and prosperity of the State; and such suggestions as to the general railroad policy of the State, or as to any part thereof, or as to the condition, affairs or conduct of any of the railroad corporations, as may seem to them appropriate, with a special report of all accidents, and the causes thereof for the preceding year.

County Board
of Commis-
sioners to
make report
to Comptrol-
ler-General.

Civ. '02, § 86.

Sec. 88. The Commissioners of each County shall on or before the fifth day of January in each year report to the Comptroller-General, to be incorporated in his annual report, and laid before the General Assembly, a detailed account of all their doings, in such form as the Comptroller-General shall direct or prepare and forward to them for such purpose.

Health off-
cers to keep
records, and
report month-
ly.

Civ. '02, § 87.

Sec. 89. The Health Officers at Georgetown, Charleston and Hilton Head shall keep a faithful record of all their doings required by law, and report the same to the Governor, at the end of each month.

CHAPTER VI.

The Public Property.

- ARTICLE 1.** Charge of the property of the State; the Sinking Fund Commission; insurance of public property.
- ARTICLE 2.** Land containing phosphate rock and phosphatic deposits; Phosphate Commissioners.
- ARTICLE 3.** Historical Commission.
- ARTICLE 4.** Commission for State House and Grounds.
- ARTICLE 5.** Other property of the State; miscellaneous provisions.

ARTICLE I.

CHARGE OF THE PROPERTY OF THE STATE—THE SINKING FUND COMMISSION.

Sec.

90. All public property under charge of Secretary of State, unless otherwise provided.
91. Vacant lands grantable only to purchasers for value; under control of Sinking Fund Commission.
92. The Sinking Fund Commission; who constitute, and their duties.
93. Sales of property not in actual public use; disposition of proceeds; exception.
94. Annual report of sales and transactions; investments; compensation.
95. Sinking Fund may lend money on bonds, etc.
96. Sinking Fund may lend money to Counties.
97. Application for loans; when received and how loans may be made.
98. Liability of County Treasurer for violation of Section 94.
99. In what funds loans must be repaid.
100. State's title in certain forfeited lands renounced.

Sec.

101. Petitions for relief by taxpayer.
102. Lien of State for taxes; how enforced.
103. Lands not on tax books to be surveyed, etc., at discretion of Sinking Fund Commission.
104. Annual settlements of County Treasurers.
105. Nulla bona tax executions to be returned to Auditors.
106. Sinking Fund Commission to have access to books of County Auditors and Treasurers.
107. Powers of Secretary of State as to forfeited lands.
108. Enforcement of tax lien against forfeited lands.
109. Fees, costs and expenses of.
110. Sale under proceedings against, etc.
111. Proceedings for relief of taxpayer.
112. Evidence on such proceedings.
113. Sheriff's deed as evidence.
114. Remedies of Secs. 107 to 113 cumulative.

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SEC.

- 115. Sinking Fund Commission to investigate shortages, etc.
- 116. Sinking Fund Commission to collect unpaid school taxes.
- 117. Disposition of forfeited lands and lands sold the State.
- 118. Sheriff's commissions and duties as to such lands.
- 119. Expenses of survey; how paid.
- 120. Money to be refunded certain purchasers.
- 121. Agents of Sinking Fund Commission.
- 122. Lands off tax books, etc.
- 123. Insurance on public buildings.
- 124. Premiums, etc.
- 125. Values of buildings; how fixed.
- 126. Premiums to be paid by the State.

SEC.

- 127. Value of new buildings; how fixed, etc.
- 128. Adjustment of losses and settlement.
- 129. Limit of insurance fund.
- 130. Duty of officers to insure State and County buildings.
- 131. Value of uninsured buildings; how fixed.
- 132. Rate of premium; how changed.
- 133. Sinking Fund Commission may prescribe insurance on certain State property.
- 134. When insurance shall be taken in old line companies.
- 135. Apportionment to old line companies.

All public property under charge of Secretary of State, unless otherwise provided by law.

Civ. '02, § 88.

Section 90. The Secretary of State shall take charge of all property of the State, the care and custody of which is not otherwise provided for by law. He shall hold the same subject to the directions and instructions of the Commissioners of the Sinking Fund, and act as their agent in such redemption, lease, and sale, as they may make, of forfeited and vacant lands, and lands purchased by the late Land Commissioners of the State, and in the negotiations therefor and arrangements in relation thereto.

Title of lands purchased by Land Commissioner were properly not made to the State, but to that officer, and passed to his successor in office.—*The State v. Evans*, 33 S. C., 184; 11 S. E., 697.

The Statute of Uses did not vest such title in the State.—*Id.*

Suit against the Sinking Fund Commissioners on contract for sale of land made by their predecessor, the land commissioner, cannot be maintained, being in effect a suit against the State.—*Lowry v. Thompson*, 25 S. C., 416; 1 S. E., 141. The Secretary of State is the custodian of the State's property.—*Tindal v. Wesley*, 167 U. S., 211.

Vacant lands grantable only to purchasers for value; under control of Sinking Fund Commission.

Civ. '02, § 89.

Who constitute the Sinking Fund Commission, and their duties.

Civ. '02, § 90.

Sec. 91. No grants of vacant lands shall be issued except to actual purchasers thereof for value; and all vacant lands and lands purchased by the late Land Commissioners of the State shall be likewise subject to the directions and instructions of the Commissioners of the Sinking Fund.

Sec. 92. For the purpose of paying the present indebtedness of the State, the Governor, Comptroller-General, State Treasurer, and the Attorney-General of the State, the Chairman of the Finance Committee of the Senate, and the Chairman of the Committee of Ways and Means of the House of Representatives, are constituted Commissioners, to

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be known and designated as "the Commissioners of the Sinking Fund," to receive and manage the incomes and revenues set apart and applied to the Sinking Fund of the State; and the State Treasurer shall be Treasurer of the Commissioners of the Sinking Fund; and all moneys arising from the redemption of lands, leases and sales of property, or otherwise coming to said Commissioners of the Sinking Fund, shall be paid into the State Treasury, and shall be kept on a separate account by the Treasurer as a fund to be drawn upon the warrants of the Commissioners of the Sinking Fund for the exclusive uses and purposes which have been or shall be declared in relation to the said Commissioners of the Sinking Fund.

Sec. 93. It shall be the duty of the Commissioners of the Sinking Fund to sell and convey, for and on behalf of the State all such real or personal property, assets and effects belonging to the State as are not in actual public use; and all such lands sold under execution for delinquent taxes as have been or may hereafter be purchased for and conveyed and delivered to them pursuant to the provisions of Section 468; said sales to be made from time to time, in such manner, and upon such terms, as they may deem most advantageous to the State. The purchase money of said lands or other property shall be paid in the following kinds of funds, and no other, to wit: gold and silver coin, United States currency, National Bank notes, and coupons which shall be due and payable on the consolidated bonds of this State known as Brown Bonds. The proceeds of all such sales shall be set aside, and awarded to the Sinking Fund of the State. This shall not be construed to authorize the sale by the Commissioners of any property held in trust for a specific purpose by the State, or the property of the State in the phosphate rocks or phosphatic deposits in the beds of the navigable streams and waters and marshes of the State.

Sales of property not in actual public use; disposition of proceeds; exception.

Civ. '02, § 91.

Tindal v. Wesley, 167 U. S., 211.

Sec. 94. The Commissioners shall annually report to the General Assembly the condition of the Sinking Fund and all sales or other transactions connected therewith; and all the revenues derived from such sales shall be applied to the extinguishment of the public debt, by investing the same

Annual report of sales and transactions; investments; compensation.

Civ. '02, § 92.

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in the public securities of the State. Each of the Commissioners, except those who as State officers reside in Columbia, shall receive five dollars a day for each day actually engaged in attending the meetings of said Commission, and in going to and returning from the same, and a mileage of five cents per mile for each mile of travel in going to and returning from each session; the same to be paid out of any funds in their possession.

Sinking Fund
Commission
to lend fund,
etc.

Civ. '02, § 93.

Sec. 95. The Sinking Fund Commission are hereby authorized when unable to purchase valid bonds of this State at par to lend the sinking fund at such a rate of interest as may be agreed upon between them and the borrower, not less than $4\frac{1}{2}$ per centum per annum, on the security of the said bonds, sufficient to cover the loan and interest at the par value of the bonds, the bonds to be deposited with the State Treasurer as security for the loan and as collateral to the personal obligation of the borrower, to be taken by said Commission, showing the terms and maturity of the loan.

Sinking Fund
Commission
to lend money
to Counties;
when.

Civ. '02, § 94.

Sec. 96. The Sinking Fund Commission are hereby authorized and required, when in the judgment of said Commissioners of the Sinking Fund valid bonds of the State are not offered or attainable at a reasonable price, to lend the money of the Sinking Fund Commission, both accumulated and ordinary, for a period of one year at a rate of interest of five per cent. per annum.

The said loan shall be made by the said Commissioners upon the valid securities of the several States of the United States, giving preference thereto, or upon the note of the County Treasurer and County Supervisor of any of the Counties of this State, who shall make application for a loan, provided the said loan be not more than one-half of the tax levy of said County, and the whole of the taxes of the said County shall be pledged for the repayment of the money so borrowed of the said Sinking Fund Commission.

Loan when
paid.

The County Treasurers of the respective Counties borrowing funds of the Sinking Fund Commission shall pay the note so given out of the first taxes collected for the fiscal year for which the said money is borrowed.

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Sec. 97. The Sinking Fund Commissioners shall receive applications for the various Counties and file the same until the first day of March of every subsequent year hereafter, and if the applications aggregate more than the entire fund in the hands of the Sinking Fund Commissioners, said Commissioners shall prorate the loan to be made to the several Counties in proportion to the taxes paid by the respective Counties: *Provided*, That no loan shall be made to any County in excess of one-half of the amount of the tax levy for such County for County purposes.

Applications for loans; when received; how amts. to be loaned pro rated.

Civ. '02, § 95.

Sec. 98. Any County Treasurer who shall violate the provisions of Section 96 shall be fined on conviction thereof a sum not exceeding one thousand dollars, and his bond shall be liable to said Sinking Fund Commission for the amount of the loss sustained by said Commission, together with all costs and expenses thereof.

County Treasurers violating Sec. 94 to be punished.

Civ. '02, § 96.

Sec. 99. In the case of all loans, to whatsoever person, corporation or County, made by the Commissioners of the Sinking Fund of the State, whether of the ordinary sinking fund, or of the cumulative sinking fund (for the reduction and payment of the South Carolina 4½ per cent. Brown bonds and stocks), and in the case of all bank deposits of said sinking fund, the principal thereof, and the interest and other charges, costs and dues accruing on said loans and deposits, shall be payable in, and shall always be paid to the said Commissioners of the Sinking Fund in the following kinds of funds and in no other, to wit: in gold and silver coin of the United States, in United States currency, and in national bank notes.

In what money loans must be paid.

Civ. '02, § 97.

Sec. 100. The State of South Carolina hereby renounces all title by forfeiture for non-payment of taxes to each and every parcel of land in the several Counties of the State listed on the forfeited land record on the twenty-fourth day of December, 1887, and will treat them hereafter as the lands of the former owner, his heirs or assigns; but this renunciation of title is upon the reservation and condition that the State may hereafter collect by suit at law, or other legal method, from said lands a sum equal to the aggregate amount of all annual assessments for taxes with the penalties that might and would have been assessed and charged against the said lands in case the same had never been

Title of State by forfeiture renounced.

Civ. '02, § 98.

But right to collect dues retained.

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Retention of possession and acceptance of terms of surrender.

declared delinquent and forfeited; and the retention of the possession and use of said lands for ninety days after the said 24th day of December, 1887, by said former owner, his heirs or assigns, shall be deemed sufficient evidence of his or their acquiescence in and acceptance of the reservations and conditions of said renunciation of title.

Sinking Fund Commission to hear petitions for relief.

Civ. '02, § 99.

Sec. 101. The Sinking Fund Commission is hereby authorized to hear and determine upon satisfactory proof the petition of any taxpayer praying relief on ground that all taxes, as described in last Section, have been paid or that portions of such taxes have been paid and an offer to pay the balance, accompanied by the sum admitted to be owing. And the said Sinking Fund Commission shall grant such relief in the premises as may be just.

Lien of State for taxes on said land; how enforced.

Civ. '02, § 100.

Sec. 102. To secure the entire debt due the State for prior taxes or other dues accrued to the State to and including the levy of 1886, or for any other purpose whatsoever, and for the levy of 1887, and for all subsequent levies, as they may have accrued or shall accrue upon each parcel of said land, and the costs and penalties due thereon, the State shall have a prior and preferred lien upon said land, to be enforced and asserted in any Court of competent jurisdiction by the Commissioners of the Sinking Fund, in such cases, at such time, and to such extent, as they may deem most advantageous to the interests of the State. The proceeds of any sale ordered by the Court in such suit shall be applied first to the payment to the Sinking Fund Commission of the taxes, costs and penalties charged against the property, and next to the payment of the taxed costs in the suit and expenses of sale, and the surplus, if any there be, shall be paid over to the former owners or parties in interest as their interest may appear.

Lands not on tax books to be surveyed.

Civ. '02, § 101.

And placed on tax lists.

Charges and past taxes.

Sec. 103. The Commissioners of the Sinking Fund are hereby authorized to have surveyed any lands that they are informed or believe have been continuously for ten or more immediately preceding years upon neither the Tax Duplicate or Forfeited Land List of this State; and if after such survey the said absence from said tax books be found to exist, to cause the said land to be placed upon the Tax Duplicate in the owner's name, if known, or in the name of "Unknown" if the owner's name be not known, charged

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and taxed with the entire cost of the survey and investigation, and fifty per cent. penalty additional thereto, and with the taxes for five years immediately preceding, and collecting the same under existing law for collection of taxes. The County Treasurer shall pay to the Sinking Fund Commission said costs of survey and said fifty per cent. penalty additional thereto from amount collected, and apply the residue as provided by law.

Duty of
County Treasurer.

This Section shall be by the Sinking Fund Commission applied to such extent and in such cases as they may deem most advantageous to the State.

Discretion of
Sinking Fund
Commission.

Lands listed as "unknown" by "D. S. Agent" represents the agent as owner, and tax sale is void.—Hudson v. Schumpert, 80 S. C., 23; 61 S. E., 104.

Sec. 104. The County Auditors and Treasurers shall annually have a full and final settlement as to tax executions issued by said Treasurers within twelve months after the expiration of the time allowed by law for the payment of taxes in any year.

Settlement of
tax executions.Civ. '02, §
102.

Sec. 105. All executions issued for the collection of taxes by the County Treasurers and returned "nulla bona" for any reason or "double entry," or which are not collected for any reason, shall be filed in the Auditor's office within one year from the expiration of the time for the payment, without penalty, of the taxes for the collection of which the executions are issued.

Nulla bona
tax executions
to be returned
to Auditors.Civ. '02, §
103.

The Auditor, on the filing of the said executions, shall give a receipt to the County Treasurer for the same, stating the amount due on each execution and the name of the party against whom the execution is issued, the kind and location of the property, the nature of the Sheriff's return and as full description of the property as he can furnish from his records, and he shall at the same time furnish a duplicate of said receipt to the Secretary of State, as the agent of the Sinking Fund Commission.

Auditors to
receipt there-
for.

Sec. 106. Any agent of the Sinking Fund Commission shall be allowed free access by the Auditors, the Treasurers and Sheriffs to said executions, and to the tax books, and to all records in their respective offices relating to tax matters, and may proceed to collect all tax claims pertaining to said execution, and also which pertain to such executions for taxes uncollected which may be lost or otherwise unac-

Agents of
Sinking Fund
Commission to
be allowed
free access to
books of Au-
ditors, Sher-
iffs and Treas-
urers.Civ. '02, §
104.

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Powers and
duties of
agent in col-
lecting unpaid
taxes.

counted for by the Sheriff or Treasurer in any year prior or subsequent to the passage of this Act, and all back taxes on lands and buildings, and on railroad property, real and personal, which are off the tax books, or being on the tax books are found to have escaped the payment of taxes in any year or years, from any cause, said taxes being past due and unpaid for twelve months, and not stayed by the action of any judicial process, including all cases of partial returns and payment of taxes on lands by any taxpayer who returns and pays in less than his titles call for, whose whole estate shall in all such cases be held liable under the prior and preferred lien for unpaid taxes under the provisions of this Article for any such shortage in returns and payments in proportion to the said shortage, and turn the proceeds into the ordinary sinking fund of the State under proceedings now provided by law; and the Secretary of State, as agent of the Sinking Fund Commission, is hereby authorized, in cases of railroad property, real and personal, to fix the value thereon for the purposes of this Article, subject to the right of the taxpayer to appeal to the State Board of Equalization of railroad property, to be convened in extra session at the request of the Secretary of State, and the decision of said board shall be final, and shall proceed to issue his execution against said property for the collection of said back taxes, costs and penalties, and collect the same under the provisions of Sections 107 to 113 inclusive.

Powers of
Secretary of
State as to
forfeited
lands.

Civ. '02, §
105.

Valuation.

Entry on
lands.

Demand for
payment.

Civ. '02, §
106.

Sec. 107. It shall be lawful for the Secretary of State, as agent of the Commissioners of the Sinking Fund, or for his authorized agent, to prepare a statement of the simple taxes, with fifteen per cent. penalty thereon for each and every levy which to him or his agent appears past due and unpaid upon any lands, buildings, and railroad property, real and personal, upon which any levy made by the Legislature appears past due and unpaid for twelve months; the calculation of taxes due shall be made at such valuation as the Secretary of State may deem just and equitable.

Sec. 108. The Secretary of State shall then, by himself or his agent, enter upon the lands and personally serve a copy of such statement of dues, with a demand for payment of same, together with the necessary mileage, advertisement, and other costs and charges accrued thereon, upon any per-

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son whom he finds in possession of the land, or of any part thereof; and if he fails to find any one in possession of the land, or any part thereof, upon such entry he shall post a copy of such statement and demand upon the premises, and shall serve such person or persons as to him or his agent appears to be the last owner, with a copy of the said statement and demand, if such owner or party in interest be a resident of the County in which said land is located; otherwise he shall, for three consecutive weeks, insert in some paper published in the County, or having a circulation therein, an advertisement, briefly describing the land, with the total amount due thereon, together with the mileage, advertisement and other costs, and a demand for the payment of the same within three weeks from the date of the first insertion, under pain of distress and sale of the land to satisfy said demand, with costs. If payment in gold, silver or paper, national currency of the United States, be not made within three weeks from the date of personal service, posting or first insertion of advertisement as above provided, then it shall be lawful at any time thereafter for the Secretary of State, as agent of the Commissioners of the Sinking Fund, to issue, in the name of the State, a warrant or execution in duplicate against the said land upon which said taxes, penalties, costs and charges are due, signed by him in his official capacity, directed to the Sheriff of the County in which the said land is situated, or to his lawful deputy, requiring and commanding him to levy the same by distress and sale of all of the said land in default to satisfy the taxes, State, school, County or other special levies, penalties, costs and charges against the property in the statement, together with the Sheriff's fees and costs, which warrant or execution shall run substantially in these words (filling the blanks to suit each case), viz.: Secretary of State, as *ex officio* agent of the Commissioners of the Sinking Fund, to the Sheriff of County, or to his lawful deputy: Whereas it appears that that lot or parcel of land, described as acres, more or less, situate in Township and County, bounded by lands of, is in default for taxes, penalties and costs to the amount of \$., as will more fully appear by the attached

Posting copy.
Service.

Publication
of notice.

Proceedings
on non-pay-
ment.

Execution
to issue.

Levy and
sale.

Form of war-
rant or exe-
cution.

A. D. 1912.

statement and demand, and by the return of the Secretary of State, or his agent, endorsed thereon, as to the service, posting, or advertisement of same as law requires, and the neglect of owner or person in interest to pay the above charges: These are, therefore, in the name of the State, strictly to charge and command you to levy by distress and sale of the said land the sum of.....dollars, together with.....dollars, the penalties, costs and charges thereof, and for so doing this shall be your sufficient warrant. Given under my hand and seal this.....day of.....A. D. 19....

.....
Secretary of State and *ex officio* Agent of the Commissioners
of the Sinking Fund.

Fees, costs
and expenses.

Civ. '02, §
107.

Sheriff's fees.

Printer's fee.

Limitations
on Sheriff's
charges.

Sec. 109. For every such statement and demand prepared, and so personally served or advertised by the Secretary of State, there may be collected for the Commissioners of the Sinking Fund, to be used for the benefit of the State, not more than three dollars, five cents per mile for every mile actually traveled, in entering upon the premises or service of the statement of dues and demand in going and returning, and not more than one dollar for advertising, and for every warrant issued by the Secretary of State, not more than two dollars. And the Sheriff shall take out of said land in default the following fees in the execution of his office: For serving warrant, one dollar, besides mileage at the rate of five cents for each mile actually traveled in executing the warrant; for advertising sale, twenty-five cents; for making sale and executing deed, three dollars; and for all sums levied as the simple taxes, as aforesaid, five per cent: *Provided*, The printer's charge for advertising shall not exceed fifty cents for each tract of land levied on under execution; and the Sheriff is prohibited from demanding or collecting any greater sum therefor than is hereby allowed; nor shall he receive fees upon *nulla bona* returns, nor from any other source than from the particular parcel upon which the particular fees, costs and charges accrue.

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Sec. 110. Under and by virtue of said warrant or execution the Sheriff shall seize and take exclusive possession of said land in default, and, after due advertisement, sell the same before the courthouse door of the County, on a regular salesday, and within the usual hours for public sales, for cash; make title therefor to the purchaser complying with terms of sale, and annex to said title the duplicate warrant, with endorsement thereunder; put the purchaser in possession of the property sold and conveyed, and, after deducting from proceeds of sale the amount of taxes, penalties, costs and charges, shall pay over to the former owner, or to parties in legal interest, as their interest may appear upon conclusive proof thereof, the surplus, if any there be, and shall pay to the Secretary of State, as agent of the Commissioners of the Sinking Fund, within ninety days from the date when the execution was placed in his hands, all the taxes, penalties, costs and charges other than the Sheriff's costs for levy, advertisement, and sale: *Provided*, That if the surplus be not paid over by the Sheriff within six months, to the former owner of land, or to the party formerly of legal or equitable interest in the land, upon a conclusive proof to the Sheriff of such ownership or legal interest, then, at the expiration of the said six months, it shall be the duty of the Sheriff to pay over said surplus to the Secretary of State, with an accompanying statement, certified to by him officially, fully describing the land from which the particular surplus was derived, and showing clearly the amount for which said land was sold, the amount of costs and charges disbursed therefrom by him and the surplus remaining, and thereby paid over; said surplus shall be, by the Secretary of State, turned over to the Treasurer of the Sinking Fund, with the said accompanying statement, and be held by him for five years from date of sale, subject to the order of the Board of Commissioners of the Sinking Fund for the refunding of the same to any person or persons conclusively proving to the said Board that they are entitled to said surplus, or any part thereof, on account of their former ownership or legal interest. And that any surplus not so refunded within five years shall be passed to the general Sinking Fund of the State. In case there be no bid equal in amount to the taxes

Sheriff to take possession of land.

Advertisement and sale. Titles.

Civ. '02, § 108.

Purchaser to be put in possession.

Application of proceeds.

Payment of surplus to Secretary of State.

Accompanying statement.

Disposition by Secretary of State.

Funding after five years.

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Titles to
Sinking Fund
Commission.Who shall
receive pos-
session.Assets of
State.

To be sold.

named in said warrant or execution, the County Auditor shall buy the land for the Commissioners of the Sinking Fund as the actual purchaser thereof for the amount of said taxes, costs, penalties and charges, and the Sheriff shall thereupon execute titles to the said Commissioners of the Sinking Fund as to any other purchaser and in the manner above provided, and shall put them or their authorized agent in possession of the premises, upon the payment to him, by the Commissioners of the Sinking Fund, the costs and fees above provided for the Sheriff. The land so sold and purchased and delivered to the said Commissioners of the Sinking Fund shall be treated by them as assets of the State in their charge and by them sold at such times and in such manner and upon such terms as by them shall be deemed most advantageous to the State.

Failure to proceed against personal property renders deed to land under tax sale void.—Johnson v. Jones, 72 S. C., 270; 51 S. E., 805. Fraudulent purchase by taxpayer in name of third party. *Id.*

State v. Evans, 33 S. C., 184; 11 S. E., 697. The defaulting taxpayer has the right to redeem by paying the taxes and costs at any time prior to the sale.—Ebaugh v. Mullinax, 40 S. C., 244; 18 S. E., 802.

Petition by
owner.Civ. '02, §
109.

Sec. 111. In case any owner or person having any interest in any parcel of such land alleged to be in default by the Secretary of State as aforesaid, shall allege that the taxes have been paid, he can, and may, before the issuing of the warrant to the Sheriff, set forth his alleged grievance by petition in writing, accompanied with such evidence in writing as he may desire to submit, to the Secretary of State, whose duty it shall be to pass upon the same; and if the petitioner shall be dissatisfied with the ruling of the Secretary of State, he shall have the right of appeal to the Board of Commissioners of the Sinking Fund, who are authorized to hear and pass final judgment upon such appeal, provided the appealing petitioner, within twenty days of the ruling of the Secretary of State, file with the Secretary of State a written appeal to the said Board, with all papers in the case, and pending the decision of the said Board on such appeal there shall be a stay of the issuing of the warrant to the Sheriff: *Provided*, That if, before the issuing of the execution by the Secretary of State to the Sheriff, any owner or person interested in the land shall personally file with the Secretary of State, or with his agent,

Appeal to
Sinking Fund
Commission.Papers on
appeal.Stay of war-
rant.

notice that he deems the valuation fixed by the Secretary of State as excessive, and that he desires the Township Board of Assessors to value the property, then it shall be the duty of the Secretary of State, or his agent, to call upon the said Township Board of Assessors for the Township in which the land is located, to certify to him a valuation of the said land, with improvements thereon, under pain of any member being removed from office and being fined five dollars by any Magistrate, (one-half of said fine for the benefit of the Commissioners of the Sinking Fund and one-half for the person demanding the valuation), who shall fail to so certify a valuation within one week, and such valuation by the members of the said Board of Assessors, or a majority of them, shall be final and conclusive, without right of appeal therefrom: *And provided, further*, If the said owner, or persons, in interest, do not appear and personally serve in writing the Secretary of State, or his agent, with such personal notice of appeal to the Township Board of Assessors, they shall be ever afterwards barred from any appeal whatever from the valuation placed upon the land by the Secretary of State, or his agent.

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Proceedings to obtain re-valuation.

Assessment by Township Board.

Penalty for refusal.

Valuation final.

Bar.

Sec. 112. The failure of the tax duplicates to show the payment of any levy, or part thereof, made by the General Assembly, shall in all Courts of this State, be received as *prima facie* evidence of the non-payment of such levy, or part thereof, and of the existence of the State's prior and preferred lien upon the land to secure the payment of such levy, or part thereof, with such penalties and costs as may have accrued thereon, and as a sufficient warrant for the execution and sale herein provided, and no rebutting evidence shall be in any proceeding in this State admitted except the production of the tax receipt, signed by the County Treasurer, or a receipt or certificate, signed by the Secretary of State, or his agent, showing that said levy, or part thereof or any penalties and costs that may have accrued thereon, were paid at the proper time and to the person authorized by law to receive it: *Provided, further*, That such receipt, or certificate of payment, shall be evidence only as to the particular levy to which it refers, and shall not affect any other levy, or charges or action hereunder.

Tax duplicate to be *prima facie* evidence.

Civ. '02, § 110.

Sufficient warrant for sale.

Rebutting evidence limited.

Proviso.

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Sheriff's deed
prima facie
evidence.Civ. '02, §
111.Limitation
of action.Necessary
evidence.

Sec. 113. In all cases of sale, the Sheriff's deed of conveyance, whether executed to a private person, a corporation, or to the Commissioners of the Sinking Fund, shall be held and taken as *prima facie* evidence of good title in the holder, and that all proceedings have been regular and all requirements of the law have been complied with. No action for the recovery of land sold by the Sheriff under the provisions of this Act, or for the recovery of the possession thereof, shall be maintained unless brought within one year from the date of sale, and unless it be sustained by conclusive evidence from the tax duplicates, or from a tax receipt signed by County Treasurer, or by a certificate signed by the Secretary of State, or by his agent, showing that all of the taxes and levies for which the land was sold, with the costs that may have accrued thereon, were paid prior to the sale, at the proper time, and to the properly authorized officials.

Limitation of action to recover.—Hunter v. Schumpert, 80 S. C., 25 ; 61 S. E., 104.

Cumulative
remedies.Civ. '02, §
112.Choice of
remedies.Existing
suits.Powers of
Sinking Fund
Commission to
investigate ir-
regularities
and shortages
in tax collec-
tions.Civ. '02, §
113.

Sec. 114. The remedy afforded by Sections 107 to 113 inclusive is additional to existing remedies, and the Commissioners of the Sinking Fund shall always have the choice of remedies, and the right to abandon either remedy at any stage of proceedings and adopt any other existing remedy. The provisions of Sections 107 to 113 inclusive may be applied to cases already in suit, as well as to other cases.

Sec. 115. Except as to the collection of all such tax claims as are described and set forth in Section 106, the Sinking Fund Commission shall not collect any tax for the Sinking Fund Commission: *Provided*, That the Sinking Fund Commission shall have the right to fully investigate all cases of tax receipts issued by County Treasurers, Sheriffs or Deputy Sheriffs, found by the agent in the hands of the taxpayers, the money therefor being not turned over and accounted for by such Treasurer, Sheriff or Deputy Sheriff, and other like irregularities and shortages found to exist against the said officers in the matter of tax collections; and the right and power to collect the money due in all such cases, by an action or actions which they are hereby authorized to bring in any Court of competent jurisdiction under existing laws, such sums being past due and unpaid for twelve months, and having escaped the detection and cor-

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rection by the Comptroller-General in the annual settlement between the Auditor and Treasurer: *Provided*, That such action shall in no manner affect the criminal liability of such defaulting officer: *Provided, further*, That when the Sinking Fund Commission shall collect any moneys on account of said shortages, they shall retain, for the benefit of the State Sinking Fund, only the State's portion of the taxes thereon, and refund all the balance thereof to the County Treasurer, where it belongs, after deducting ten per cent. of said balance on account of expenses of collecting said balance.

Sec. 116. Whenever, under operation of existing law, unpaid taxes, costs and penalties have become, or hereafter shall become, assets of the State in charge of the Commissioners of the Sinking Fund by reason of the same being past due and unpaid for twelve months, whether the same be upon or off the Tax Duplicate, or upon or off the Forfeited Land List as forfeited prior to December 24th, 1887, the Secretary of State, as agent of the Commissioners of the Sinking Fund, shall hereafter, once a year, pay over to the respective County Treasurers (to be by them placed to the credit of the common school fund), out of such assets as may have been collected by him during the year, so much thereof as would have been the simple Constitutional school tax had the same not become assets of the State in charge of the Commissioners of the Sinking Fund, as aforesaid.

Unpaid school taxes collected by Sinking Fund Commission to be turned over to County Treasurers.

Civ. '02, § 114.

Sec. 117. The Sheriff of each County shall be required, at the request of the Sinking Fund Commission, to take and hold possession of all lands forfeited and sold to the State for taxes, and rent out the same for said Commission, and negotiate sales of the same, and shall rent out and negotiate sales of any lands in his County belonging to the State, and collect all of said rents, and have the right to proceed to collect the same, in the name of the Commission, by any and all of the proceedings allowed by existing law.

Disposition of lands forfeited and sold to State.

Civ. '02, § 115.

Sec. 118. For doing said renting he shall have a commission of ten per cent. on all rents collected, and for making sales he shall have five per cent. of the amount realized from said sale; but he shall receive his commissions on each installment when it is paid, if the sale should be partly for cash and partly on time. The Sheriff shall

Sheriff's Commissions for renting forfeited lands.

Civ. '02, § 116.

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Sheriffs to
send to Secre-
tary of State
description of
property
bought and
title deed.

promptly send to the Secretary of State a minute and full description, in writing, of all property purchased at tax sale for the Sinking Fund Commission, and shall promptly send to the Secretary of State a title deed for all real estate so purchased, made and executed in the manner and form approved by the Attorney General; and no costs or fees allowed by law to County Treasurers, Auditors or Sheriffs for issuing execution, making levy, sale or deed, taking and holding exclusive possession, or for noting transfer in such cases, shall be paid by the Commissioners of the Sinking Fund to said County Treasurers, Auditors or Sheriffs until the land or property upon which said costs or fees accrued shall have been sold by the Commissioners of the Sinking Fund and paid for, or until he collects sufficient rent from any parcel of land to pay costs and fees accrued thereon:

Costs and
fees, when
paid.

Provided, That in cases where any such sale and conveyance have occurred since the eighteenth day of February, A. D. 1898, the Commissioners of the Sinking Fund, after the deed of conveyance and the possession of the land have been turned over to them, and they have become satisfied as to the regularity of the proceedings under which the land was sold and conveyed, shall be, and are hereby, authorized to pay at once any costs and fees of any County Treasurer, County Auditor or Sheriff incurred in reference to such land. That in holding, or renting, or negotiating sales of property, or collecting money for the Commissioners of the Sinking Fund, the County Sheriff shall act under their direction and control, and shall make reports and render accounts and make settlement in such manner and at such times as said Commissioners may require.

Sheriff to
act under con-
trol of Sink-
ing Fund
Commission.

Sheriff's bond
liable for
funds collect-
ed by him.

The said Sheriff's official bond shall be liable for the funds so collected for the Sinking Fund Commission, less his commissions on the same.

Expenses of
survey; how
to be paid.

Civ. '02, §
117.

Sec. 119. No expenses for surveying out abandoned lands for the Sinking Fund Commission shall be incurred unless a prospective purchaser shall deposit enough of money with the Commission to cover said expenses of the survey, or shall file a written agreement with said Commission to look to the proceeds of the lands when sold, and to no other source, for his pay.

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Sec. 120. When any lands shall be sold by the Commission as abandoned lands, and it turns out that the lands are not abandoned, but the taxes have been paid, and the purchaser loses the land, the Commissioners shall refund the money to said purchaser.

Commissioners to refund money to purchasers who have purchased lands which turn out not to be abandoned.

Sec. 121. The number of salaried field agents employed by the Commissioners of the Sinking Fund shall be one, at a salary not exceeding one hundred dollars per month, payable out of his collections for the Commissioners of the Sinking Fund, who shall discharge the duties imposed by the provisions of this Article, and without other compensation shall also perform such other field work relating to escheated land and other matters as the Commissioners of the Sinking Fund may require: *Provided*, That the Commissioners of the Sinking Fund may employ as many additional field agents as they may deem advisable, the sole compensation of each of whom shall be a commission not exceeding twenty-five per cent. upon his actual net collections and remittances to the Commissioners of the Sinking Fund.

Civ. '02, § 118.

Number of salaried field agents.

Civ. '02, § 119.

Sec. 122. Where the officials of a County charged with the assessment of property, or collection of taxes, shall discover any property off the tax books, the County Auditor is authorized to charge same on tax books (and at once notify the Comptroller-General, who shall immediately notify the Secretary of State, as agent of the Sinking Fund Commission,) with taxes of the current year and all back taxes due, and the County Treasurer shall collect and expend the same as if the said collection were taxes of the then current year. No County Auditor shall charge property with back taxes after written notice from the agent of the Sinking Fund Commission that the back taxes on this particular piece of property are then in process of collection by the said Sinking Fund Commission. And the Sinking Fund Commission's agent shall give said notice to said Auditor, immediately on discovery of facts rendering it necessary to investigate as to any such piece of property. And if the said Auditor, Treasurer or Sheriff shall refuse to allow such free access to said executions, books and records, the said agent may proceed by mandamus to require him or them to give access to the same; and if the said Sheriffs and Treas-

Duty of County Auditor as to property off tax books.

Civ. '02, § 120.

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urers shall refuse or neglect to make the return of said executions to the Auditor's office in due time, they may be compelled by mandamus to make said return: *Provided*, That if the said Sheriff have or shall have lost any tax execution placed in his hands by the County Treasurer in any year or years prior or subsequent to the approval of this Act, and cannot, or will not, account for or pay for the same within one year from the time the taxes pertaining to said lost executions were past due, the said Sinking Fund Commission shall have the right to recover from the said Sheriffs treble the amount of such taxes and penalties, in an action or actions which they are hereby authorized to bring in any Court of competent jurisdiction: *Provided*, That this provision shall not affect in any manner the rights and powers of County Treasurers to enforce the collection of taxes by Sheriffs under existing laws exercised within one year from the time the same became past due.

Public build-
ings to be in-
sured.

Civ. '02, §
121; 1902
XXIII, 967.

Sec. 123. After the expiration of the policies of insurance on any and all public buildings in and of this State, and of the several Counties of this State, colleges, State Hospital for the Insane, South Carolina Institution for the Education of the Deaf, Dumb and Blind, graded school buildings and common school houses excepted, all insurance on public buildings shall be carried in the manner hereinafter provided.

Premiums
paid by Coun-
ties.

Ib. § 2; Civ.
'02, § 122.

Sec. 124. Beginning on the first day of January, 1901, or on the expiration of such policies as may expire after the 1st January, 1901, there shall be paid annually, to the Commissioners of the Sinking Fund, by each County in this State, two-thirds of the amount paid annually in premiums for insurance on its public buildings, for the purpose of creating an "Insurance Sinking Fund," which money, when received by said Commissioners of the Sinking Fund, shall be held and invested by them, as other funds in their hands, for the purposes hereinafter provided; and that a separate account of such funds shall be kept.

Amount of
insurance.

Ib. § 3; Civ.
'02, § 123.

Sec. 125. The value of public buildings of each of the Counties, as fixed by the policies of insurance on said buildings, now of force, shall be taken to be the value of such buildings, and the amount of insurance fixed by said policies

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be the amount of insurance to be allowed and carried on said buildings hereunder.

Sec. 126. The State Treasurer shall pay annually, on the warrant of the Comptroller-General, who shall draw his warrant therefor, to the Commissioners of the Sinking Fund, two-thirds of the amount now paid annually in premiums for insurance on public buildings of the State. No insurance shall be carried on the State House.

Premiums
paid by State.
Ib. § 4; Clv.
'02, § 124.

Sec. 127. The value of all public buildings hereafter built shall be the actual cost of such buildings, and the insurance to be carried shall be three-fourths of such value.

Insurable
value.
Ib. § 5; Clv.
'02, § 125.

Sec. 128. In case any of such public buildings of any County of the State be damaged by fire or lightning, three appraisers shall be appointed, one to be named by the Commissioners of the Sinking Fund, one by the County Supervisor, and the two so appointed shall select the third, who shall ascertain and fix the amount of the damage, and file their report with the Commissioners of the Sinking Fund and with the County Treasurer of the County where the loss occurred, and the said Commissioners of the Sinking Fund shall pay to the County Treasurer the amount so fixed. In case of a total loss by fire or lightning of any of such public buildings, the amount of insurance carried hereunder shall be paid by the Commissioners of the Sinking Fund to the County Treasurer of the County where the loss occurred; and in case of loss or damage to any State building insured hereunder, the amount of loss shall be fixed by a like appraisement, one appraiser to be named by the State Treasurer; and the amount of loss, when fixed, shall be placed by the Sinking Fund Commission to the credit of an account to be opened in the name of the building lost or damaged, and use the same to pay for the rebuilding or repairing of such building.

Adjustment
of losses.
Ib. § 6; Clv.
'02, § 126.

Sec. 129. When the insurance fund herein provided for reaches the sum of two hundred thousand dollars, no further premiums shall be paid, either by the Counties or the State, until a part of such fund has been used in the payment of losses; and in that event the premiums of insurance shall be again paid, as provided in Sections 125 and 126, until the fund again reaches the sum of two hundred thousand dollars.

Limit of in-
surance fund.
Ib. § 7; Clv.
'02, § 127.

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Officers to
insure build-
ings.

Ib. § 8; Civ.
'02, § 128.

Sec. 130. The proper officers having by law the care and custody of State or County buildings, shall insure such buildings under the provisions herein set forth, whether such buildings have been heretofore insured or not.

Values, how
fixed where
no insurance
is now car-
ried.

Ib. § 9; Civ.
'02, § 128.

Sec. 131. In those Counties where no insurance is at present carried on the public buildings, or where it is desired to increase or decrease the amount of insurance, the value of the buildings and the amount of insurance to be carried shall be fixed by three appraisers, appointed in the manner provided for appointing appraisers in Section 128. The amount of insurance carried on any building insured hereunder shall not exceed three-fourths of the value of such building; and the rate charged for insurance on buildings not heretofore insured shall be the same rate charged on other like buildings, with a just additional amount on account of exposures, to be fixed by the said appraisers, when in their judgment such additional premium is necessary.

Rate of
premium;
how changed.

Ib. § 10.

Sec. 132. Where it is desired to increase or decrease the rate charged for insurance on any buildings heretofore insured or hereafter to be insured hereunder, so as to make said rate commensurate with any increased or diminished hazard or exposure of any such building, the rate shall be fixed by three appraisers appointed in the manner provided for appointing appraisers in Section 128.

See Criminal Code.

Sinking Fund
Commission
may prescribe
insurance on
certain State
property.

1907 XXV,
583.

Sec. 133. By resolution of the Commission, duly recorded in their Minute Book, the Commissioners of the Sinking Fund of the State are authorized, in their discretion, to require that all or any new insurance or renewal of insurance already existing, which shall be taken out after June 1st, 1907, upon all or any of the buildings and contents thereof of the State Hospital for the Insane, the South Carolina Institution for the Education of the Deaf, Dumb and Blind, and of the South Carolina College, Clemson College, Winthrop College, the South Carolina Military Academy, at Charleston, S. C., and upon the Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina, at Orangeburg, S. C., shall be carried as follows: 90 per cent. of all the insurance carried upon each

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building, and its contents, shall be carried in reliable old line insurance companies as heretofore, and 10 per cent. of all the insurance carried upon each of said buildings, and the contents thereof, shall be carried in the State Department of Insurance of Public Property by the Sinking Fund Commission; said 90 per cent. of the insurance carried by the said reliable old line insurance companies, and the 10 per cent. thereof carried by the Sinking Fund Commission on said buildings, and the contents thereof, shall be concurrently carried, and the policies shall be issued concurrently and coterminally, and the premium and losses paid upon each of said concurrent policies shall be proportionate to the amount of insurance carried in each of said concurrent policies, so that the premium paid to the Commissioners of the Sinking Fund for carrying one-tenth of the insurance so carried shall be one-ninth of the aggregate amount of premiums paid to the said old line insurance companies for carrying nine-tenths of the total amount of insurance so concurrently carried; and in the event of loss or damage by fire, the amount paid for such loss or damage by the Commissioners of the Sinking Fund shall be one-tenth of the whole amount for which all of the concurrent policies (including the Sinking Fund Commission's policy) are liable, the Commissioners of the Sinking Fund settling *pro rata* upon the same basis upon which the said old line insurance companies settle their proportion of the loss, whether the same be ascertained and fixed by mutual appraisement or arbitration, or by adjudication in the Courts. Said premiums received by the Commissioners of the Sinking Fund shall be paid into the general insurance sinking fund, from which general insurance fund, for the insurance of public buildings and public property, the Commissioners of the Sinking Fund shall pay all losses by fire for which they are legally liable. It shall be the duty of the Comptroller-General to cause the insurance premiums, as required by this Section, to be paid simultaneously, nine-tenths thereof to said old line insurance companies and one-tenth thereof to the State Treasurer, as Treasurer of the Sinking Fund Commission, each payable to the State Treasurer, to be accompanied with such detailed information to the State Treasurer as to the description of

Ninety per cent. to be in old line companies.

Ten per cent. by Sinking Fund Commission.

Duty of Comptroller-General.

A. D. 1912.

the property insured, the total amount of insurance so concurrently carried thereon, and at what total premium, and for what term carried, as to enable the Commissioners of the Sinking Fund to properly issue the Sinking Fund concurrent policy of insurance. It shall be the duty of every person or persons, official or officials, receiving from any old line insurance company any notice concerning the cancellation or substitution of any of said concurrent policies issued by said old line insurance company, or any notice concerning any increase of hazard, or concerning any increase of premium based thereon upon any property covered by any said concurrent old line company policy, to at once mail, under an immediate delivery postage stamp, a correct copy of such notice to the State Treasurer, and also promptly, and at all times, to render and give to the Comptroller-General and to the State Treasurer such other information and aid as the execution of this Section may require.

When insurance shall be taken in old line companies.

1909, XXVI, 91.

Sec. 134. Whenever the amount of insurance to be carried under the preceding Sections 123 to 130 of this Chapter, each inclusive, upon any one building amounts to more than fifty per cent. of the assets in the hands of the Commissioners of the Sinking Fund belonging to the fund for State insurance of public property, then it shall be the duty of the County Supervisor for County property, and of the person or persons charged with its care and custody for State property, at the premium rate charged for like risks by reliable old line insurance companies, to seek and obtain from the Commissioners of the Sinking Fund concurrent insurance thereon equal in amount to fifty per cent. of the amount of said insurance fund assets at that time in the hands of the Commissioners of the Sinking Fund, and to obtain from and carry concurrently with some old line insurance company or companies the remainder of the insurance to be carried upon said building.

Apportionment of insurance to old line companies.

1909, XXVI, 92.

Sec. 135. Any new insurance or renewal of old insurance which may hereafter be taken out upon the buildings, and the contents thereof, mentioned in Section 134, shall be carried concurrently as provided in said Section 134, with the following changes as to the proportionate amounts of concurrent insurance respectively carried, and liability respectively incurred by the said reliable old line insurance

companies, and by the said Sinking Fund Commission: Eighty per cent. thereof shall be carried in said reliable old line insurance companies, and twenty per cent. thereof shall be carried in the said Sinking Fund Commission; and that hereafter whenever the said assets in the hands of Sinking Fund Commission shall increase twenty-five (25) per cent. the amount of insurance carried concurrently by the said Sinking Fund Commission upon the said buildings and the contents thereof shall be increased five per cent., the percentage of insurance thereon concurrently carried by said old line insurance companies being proportionately decreased: *Provided*, That the amount of insurance so carried concurrently by the said Sinking Fund Commission upon any one building shall not exceed fifty per cent. of the said insurance fund assets in the hands of the Commissioners of the Sinking Fund. It shall be the duty of the Commissioners of the Sinking Fund to prepare statements showing the amount of these insurance assets in their hands on June 30th and December 31st of each year (or oftener if they deem it necessary), after deducting therefrom all amounts paid by them for losses incurred and for all expenses necessary to the proper conduct of the business of State insurance of public property. That after March 15, 1909, the insurance carried on the main warehouse building and on the office building of the late State dispensary in Columbia, S. C., and on the buildings and contents thereof belonging to the Industrial School for boys, and of the Reformatory for colored boys, shall be carried under the provisions of this Section, and under the provisions of said Section 134.

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ARTICLE II.

LAND CONTAINING PHOSPHATE ROCK AND PHOSPHATIC DEPOSITS.

SEC.

- 136. Board of Phosphate Commissioners; constitution of, and compensation.
- 137. Chairman and Secretary of Board; quorum.
- 138. Board has exclusive control of State's phosphate interests; exceptions.
- 139. Powers, rights, etc., of Board.
- 140. Charged with protection of State's interests in all phosphate deposits and mines, as against adverse claimants.
- 141. Survey of State's phosphate territory.
- 142. Powers of Board as to grant of licenses.
- 143. May grant or refuse applications for license.
- 144. Bond of licensee; condition; how approved.
- 145. Returns of rock mined and payment of royalty; when and to whom made.
- 146. Power of Board to raise royalty and limit thereof; notice of increase.
- 147. Limit of royalty, etc.

SEC.

- 148. Board notifies Comptroller-General of license issued; time and particulars of notice.
- 149. When additional security to bond may be required; proceedings.
- 150. Proceeding for relief of sureties; new bond and its effect.
- 151. Coosaw River phosphate territory; powers and duties of the Board in relation thereto.
- 152. Board to report annually to General Assembly.
- 153. Mining without license; penalty.
- 154. Buying or receiving from person not licensed.
- 155. Penalty.
- 156. Board may take proceedings to prevent interference, etc.
- 157. Forfeiture of boats, dredges, etc., used by unlicensed persons; proceedings to enforce same.

The effect of this Article considered in *Coosaw Mining Co. v. State of So. Ca.*, 144 U. S., 550.

Board of
Phosphate
Commission-
ers; constitu-
tion of and
compensation.

Civ. '02, §
130.

Section 136. A Board of Phosphate Commissioners is established, which shall be constituted as follows: The Governor, the Attorney General, and Comptroller General, and two persons, citizens of the State; the last two to be appointed by the Governor, Attorney General and the Comptroller General for the term of six years; the first appointment, however, to be made, one for four years, and one for six years. The Governor, Attorney General, and Comptroller General shall not receive any compensation for their services on this Board except actual traveling and other necessary expenses while engaged in attending to their duties as members of the Board when the same shall be performed at any other place than the State Capitol. The two Commissioners appointed as above shall receive as compensation for their services the same per diem and mileage as

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members of the General Assembly for the time they are actually engaged in performing the duties of their office.

Sec. 137. The Governor shall be Chairman of the Board, and three members shall constitute a quorum for the transaction of any business pertaining to the Board, and the Secretary shall be appointed from among the members of the Board.

Chairman and Secretary of Board; quorum.

Civ. '02, § 131.

Sec. 138. The Board shall be charged with the exclusive control and protection of the rights and interest of the State in the phosphate rocks and phosphatic deposits in the navigable streams and in the marshes thereof, except that the Comptroller General shall continue to receive the reports of rock mined and dug and the royalty paid into the State Treasury.

Board has exclusive control of State's phosphate interests, etc.

Civ. '02, § 132.

Sec. 139. All the powers, duties, rights and privileges vested in, and exercised by, the late Department of Agriculture, as heretofore established by law, so far as the same pertains and relates to the management and protection of the rights and interests of this State in the phosphate rocks and phosphatic deposits in the navigable streams of this State, and in the marshes thereof, are hereby vested in, and are devolved upon, the Board of Phosphate Commissioners.

Powers, rights, etc., of Board.

Civ. '02, § 133.

Sec. 140. The Board are further authorized and empowered to inquire into and protect the interests of the State in and to any phosphate deposits or mines, whether in the navigable waters of the State or in land marshes, or other territory owned or claimed by other parties, and in the proceeds of any such mines, and to take such action for, or in behalf of, the State, in regard thereto, as they may find necessary or deem proper.

Charged with protection of State's interests in all phosphate deposits and mines as against adverse claimants.

Civ. '02, § 134.

Sec. 141. The Board are hereby empowered and directed, if they see proper, as soon as practicable, to begin a survey of the State's phosphate territory, and for this purpose they may employ such experts and other persons, and may obtain, by purchase or otherwise, such a dredge or other apparatus as shall be found necessary to prosecute this work in a thorough manner.

Survey of State's phosphate territory.

Civ. '02, § 135.

Sec. 142. The Board are authorized to grant to all citizens of the State, and bodies corporate, applying for the same, licenses granting a general right to dig, mine and remove phosphate rock and phosphatic deposits from all the

Powers of Board as to grant of licenses.

Civ. '02, § 137.

A. D. 1912.

navigable streams and waters and marshes of the State, and also from such of the creeks, not navigable, lying therein, as may contain phosphatic rock and deposits, belonging to the State and not previously granted. Such licenses shall be for the term of one year, renewable at the pleasure of the Board.

May grant
or refuse ap-
plications for
license.

Civ. '02, §
138.

Sec. 143. In every case in which such application shall be made to the Board for a license, the Board may grant or refuse the license as they may deem best for the interest of the State and the proper management of the interests of the State in such deposits.

The duty imposed by this Section involves discretion, and mandamus will not issue requiring the Board to grant such license.—*State v. Hagood*, 30 S. C., 519; 9 S. E., 686.

In the exercise of their discretion the Board cannot determine the constitutionality of the Act.—*Id.*

Bond of li-
censee; condi-
tion; how ap-
proved.

Civ. '02, §
139.

Sec. 144. As a condition precedent to the right to dig, mine and remove the said rocks and deposits hereby granted, each person or company shall enter into bond, with security, in the penal sum of five thousand dollars, conditioned for the making, at the end of every month, of true and faithful returns to the Comptroller-General of the number of tons of phosphate rock and phosphatic deposits so dug or mined, and the punctual payment to the State Treasurer of the royalty hereinafter provided at the end of every quarter or three months, which bond and sureties therein shall be subject to the approval now required by law for the bonds of State officers.

Returns of
rock mined
and payment
of royalty,
when and to
whom made.

Civ. '02, §
140.

Sec. 145. Each and every person, or body corporate, to whom licenses shall be issued, must, at the end of every month, make to the Comptroller-General true and lawful returns of the phosphate rocks and phosphatic deposits they may have dug or mined during said month, and shall punctually pay to the State Treasurer, at the end of every quarter, or three months, the royalty provided by law to be paid thereon, which shall not exceed two dollars per ton upon each and every ton of the crude rock, and not of the rock after it has been steamed or dried, the first quarter to commence to run on the first day of January in each year.

Sec. 146. The Board of Phosphate Commissioners of this State are hereby vested with full and complete power and control over all mining now being done, or hereafter to

be done, within the phosphate territory belonging to the State of South Carolina, and over all persons or corporations digging or mining phosphate rock or phosphatic deposit in the navigable streams and waters, or in the marshes thereof, with full power and authority to fix, regulate, raise or reduce such royalty as shall from time to time be paid to the State per ton by such persons or corporations for all or any such phosphate rock dug, mined, removed and shipped or otherwise sent to the market therefrom: *Provided*, Six months' notice shall be given all persons or corporations at such time digging or mining phosphate rock in said navigable streams and waters or marshes before any increase shall be made in the rate of royalty theretofore existing.

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Powers of Board of Phosphate Commissioners to fix rates for digging phosphate.

Civ. '02, § 141.

Sec. 147. The Board of Phosphate Commissioners of the State are hereby authorized and empowered to fix the royalty to be paid the State by parties mining in the navigable waters and the marshes of this State at such amounts, not to exceed two dollars per ton, and for such periods as they, upon full investigation and examination, may deem advisable: *Provided*, That six months' notice be given of any raising of such royalty above the sum of one dollar.

Royalty to be fixed.

Civ. '02, § 142.

Limit.

Notice of increase.

Sec. 148. The Board shall, within twenty days after the grant of any licenses, as aforesaid, notify the Comptroller-General of the issuing of such licenses, with the name of the person to whom issued, the time of license, and the location for which it was issued.

Board notifies Comptroller-General of licenses issued; time and particulars of notice.

Civ. '02, § 143.

Sec. 149. Whenever the Board shall have reason to doubt the solvency of any surety whose name appears upon any bond heretofore executed, or which may hereafter be executed, for the purpose of securing the payment of the phosphate royalty by any person, or corporation, or company, digging, mining and removing phosphate rock, or phosphatic deposits, in any of the territory, the property of the State, under any grant or license, it shall be the duty of the Board forthwith to notify the person, corporation or company giving such bond, and the sureties thereon, and to require that one or more sureties, as the case may be, shall be added to said bond, which surety or sureties shall be approved by the Board.

When additional security to bonds may be required; proceedings.

Civ. '02, § 144.

A. D. 1912.

Proceeding
for relief of
sureties: new
bond and its
effect.

Civ. '02, §
145.

Sec. 150. It shall be the duty of the Board, upon petition filed by any person who now is, or shall hereafter become, surety on any such bond as aforesaid, and who considers himself in danger of being injured by such suretyship, to notify the person, corporation, or company, giving said bond to give a new bond with other sureties, and upon failure to do so within thirty days, to cause said person, company or corporation to suspend further operations until a new bond be given, but in no case shall the sureties on the old bond be discharged from liability thereon until the new bond has been executed and approved, and said sureties shall not be discharged from any antecedent liability by reason of said suretyship.

Coosaw Riv-
er phosphate
territory;
powers and
duties of
Board in re-
lation thereto.

Civ. '02, §
146.

Sec. 151. The Board are hereby authorized and directed after the first day of March, 1891, to take possession and control of the Coosaw River phosphate territory heretofore occupied by the Coosaw Mining Company, and to issue licenses to mine therein, and remove phosphate rock and phosphate deposits therefrom, in like manner as is now provided by law for the other navigable streams and waters of the State: *Provided*, That such parties so licensed or authorized shall be deemed the agents of the State, and each ton of phosphate rock or phosphatic deposits the product of such mining operations shall be deemed the property of the State until the said parties shall have paid thereon a royalty, to be fixed by the Board at not exceeding two dollars per ton, on each ton of phosphate rock or phosphatic deposit dug, mined and removed: *Provided*, That six months' notice be given before raising royalty above one dollar.

Board to re-
port annually
to General
Assembly.

Civ. '02, §
147.

Sec. 152. The Board shall report annually to the General Assembly their actings and doings during the year, and to the time of the meeting of the same, with an itemized account of their expenses for said year.

Mining with-
out license;
penalty.

Civ. '02, §
148.

Sec. 153. Every person or corporation who shall dig, mine, or remove any phosphate rock or phosphatic deposit from the beds of the navigable streams and waters and marshes of the State without license therefor previously granted by the State to such person or corporation shall be liable to a penalty of ten (\$10) dollars for each and every ton of phosphate rocks or phosphatic deposits so dug, mined or removed, to be recovered by action at the suit of the State in any Court of competent jurisdiction; one-half of said

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penalty to be for the use of the State, and the other half to the use of the informer.

Sec. 154. It shall not be lawful for any person or corporation to purchase or receive any phosphate rock or phosphatic deposit dug, mined or removed from the navigable streams or waters or marshes of the State from any person or corporation not duly authorized by Act of the General Assembly of this State to dig, mine or remove such phosphate rock and phosphatic deposit.

Buying or receiving from person not licensed.

Civ. '02, § 149.

Sec. 155. Any person or corporation violating the preceding Section shall forfeit to the State the sum of ten dollars (\$10) for each and every ton of phosphate rock or phosphatic deposit so purchased or received, to be recovered by action in any Court of competent jurisdiction; one-half of said forfeiture to be to the use of the State, the other half to the use of the informer.

Penalty.
Civ. '02, § 150.

Sec. 156. Should any person whosoever interfere with, obstruct, or molest, or attempt to interfere with, obstruct, or molest, the said Board of Phosphate Commissioners, or any one by them authorized or licensed hereunder, in the peaceable possession and occupation for mining purposes of any of the marshes and navigable streams and waters of the State, then, and in that case, the said Board of Phosphate Commissioners are hereby authorized, and in the name and on behalf of the State of South Carolina, to take such measures or proceedings as they may be advised are proper to enjoin and terminate any such molestation, interference, or obstruction, and place the State, through its agents, the said Board of Phosphate Commissioners, or any one under them authorized, in absolute and practical possession and occupation of the same.

Board may take proceedings to prevent interference, etc.

Civ. '02, § 151.

Sec. 157. Should any person or persons, corporation or corporations, attempt to mine or remove phosphate rock and phosphatic deposits from any of the said marshes and navigable waters and streams, including the aforesaid Coosaw River phosphate territory, after the said first day of March, 1891, by and with any boat, vessels, marine dredge or other appliances for the same, without the leave or license of the said Board of Phosphate Commissioners thereto first had and obtained, all such boats, vessels, marine dredges and other appliances are hereby declared forfeited to and

Forfeiture of boats, dredges, etc., used by unlicensed persons; proceedings to enforce same.

Civ. '02, § 152.

A. D. 1912.

the property of the State of South Carolina, and it shall be the duty of the Attorney General, for and in behalf of the State, to institute proceedings in any Court of competent jurisdiction for the claim and delivery thereof, in the ordinary form of action for claim and delivery, in which actions the title of the State shall be established by the proof of the commission of any such act of forfeiture by the person or persons, corporation or corporations, owning the same, or their agents, in possession of such boats, vessels, marine dredges or other appliances: *Provided*, That in any such action the State shall not be called upon or required to give any bond or obligation as is required by parties plaintiff in action for claim and delivery.

ARTICLE III.

HISTORICAL COMMISSION.

SEC.	SEC.
158. Historical Commission created.	163. Secretary; duties and compensation.
159. Duty of Commission.	164. Custody of records.
160. Appointment of members.	165. Deposits by private parties.
161. Objects and purposes.	166. Equipment of apartments.
162. Apartments and archives.	167. Clerk not to do other work.

Historical Commission.

1894, XX,
833.

Section 158. A Commission is created, to be known as the Historical Commission of the State of South Carolina, to consist of the Secretary of State, *ex officio*, as Chairman, and five other citizens of the State, to be appointed by the Governor, and to serve without compensation, and any vacancy arising in the Commission shall be filled by appointment of the Governor.

Duty.

Sec. 159. It shall be the duty of said Commission to procure such documents or transcripts of documents and such other material relating to the history of South Carolina as they may deem necessary or important, to superintend the arrangement and preservation of the same, and to make suitable regulations for their inspection and examination in order to protect them from injury.

Sec. 160. The terms of office of the five citizens of the State appointed by the Governor as members of the

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Appointment
of members;
terms of of-
fice.1905, XXIV,
907.

Historical Commission of this State, shall be so arranged as that the term of one of them shall expire every two (2) years, so that the term of one of them shall expire upon the 31st day of December, A. D., 1906, and a like expiration of the term of a member shall take place on the 31st day of December in every second year thereafter: *Provided*, That any member whose term may expire shall continue to be a member of the Commission until his successor has been appointed and has qualified. Upon the expiration of the term of any member, his successor shall be appointed by the Governor, to hold for the term of ten (10) years from the date of the expiration of the term so expired. Any member whose term may expire is eligible for reappointment. In case of any vacancy occurring through death, resignation or otherwise, the Governor shall appoint a successor, to hold for the unexpired part of the term, and until his successor is appointed and has qualified. It shall be the duty of the Commission to notify the Governor whenever any term may expire or vacancy occur. The said Commission shall hold, at the State Capitol, at least one regular meeting during the year, and as many special meetings as may be necessary; and at said meetings four (4) members shall constitute a quorum, and it shall be the duty of said Commission annually to make a report to the General Assembly of their actings and doings as such.

Sec. 161. The objects and purposes of the said Historical Commission are: The care and custody of all the official archives of the State not now in current use; the collection of materials bearing upon the history of the State, and of the Counties and territory included therein, from the earliest times; the collection of all documents or transcripts of documents and of material relating to the history of South Carolina, and of all its territory and inhabitants; and particularly of procuring data concerning South Carolina soldiers in the War of the Revolution and the War Between the States; the due and orderly arrangement, indexing and preservation of the same, with suitable regulations for their inspection and examination, in order to protect them from injury; the providing for the diffusion of knowledge in reference to the history and resources of the State, and the

Objects and
purposes.

Id. § 2.

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encouragement of historical work and research therein, and the preparation for publication of such official records and historical materials as the State may at any time desire to publish, and arrange for the publication thereof, and the performance of such other acts and requirements as may be enjoined by law.

Apartments
and archives.

Ib., § 3.

Sec. 162. The said Historical Commission shall be located at the State Capitol, in the city of Columbia, in separate apartments in such Capitol, to be designated and set aside for its use by the Secretary of State, of which apartments the said Commission shall have exclusive charge and control, and in which apartments all the archives, documents and materials in charge and custody of the said Commission shall be deposited, together with all such historical material of any and every kind as the said Commission may collect and gather from any source, and which the said Commission are authorized and empowered to receive from any one whomsoever, for the purpose of safe keeping and for inspection and examination, under such regulations as may be provided, with due regard for the care and custody of the same. The said Commission is empowered to adopt a seal and make rules for its own government, and also for the use and regulations of the apartments assigned to it, and for the inspection and examination of the archives and papers in its charge; and to provide for the selection and appointment of such employees as may be authorized by the General Assembly; to have the direction and control of the marking of historical sites, or houses and localities, and the exploration of prehistorical remains and Indian mounds, and other remains existing in the State, and to do and perform such other acts and things as may be proper to carry out the true intent and purposes of this Article.

Secretary.

Ib., § 4.

Sec. 163. The said Commission is hereby authorized and empowered to select a Secretary, who shall not be a member of the Commission, and who shall hold office at the pleasure of said Commission. He shall take an oath of office, as other public officials, and shall be commissioned in like manner. He shall keep the official books and minutes of the Commission, and shall devote his time, under the supervision, direction and control of the Commission, to the care and custody of all the documents, material and property in

Duties there-
of.

A. D. 1912.

charge of the Commission, and the performance of such other duties as the Commission may devolve on him, and shall receive for his services the sum of one thousand dollars (\$1,000.00) per annum, payable monthly, to be paid to him by the State Treasurer upon the warrant of the Comptroller General.

Sec. 164. The said Commission will take into its charge and have delivered to it, all archives, records, papers, books and historical material in the present charge of the Secretary of State, or any other State officer, and whenever in any office in this State there are official books, records, documents or original papers of any kind, forming part of the archives of the State, and not needed for current use in said offices, and which, in the opinion of the State Historical Commission, would be better provided for as to their permanent preservation by a deposit with the said Commission, and the removal whereof from their present places of custody to the official apartments and custody of said State Historical Commission may be authorized by this or any future Act of the General Assembly, and which such official books, records, documents or original papers have been removed from their former custody to that of the Commission; then and in that case copies therefrom, duly certified, under the seal of the Commission and the hand of the Secretary, shall have like force and effect in all respects as if made by the officer originally in charge of them, and for which copies the same fees shall be chargeable.

Custody of
records.

Id., § 5.

Sec. 165. Whenever any person or persons whomsoever, having in his or their possession or control any books, papers, manuscripts or historical material at any time of any kind shall desire to deposit the same in the charge of said Historical Commission for safe keeping and preservation, the said Historical Commission are hereby authorized and empowered to receive the same and give a proper receipt for the same and to take and keep in their custody and control all the same in like manner as the archives of the State, to be returned when the holders or owners thereof may so demand, and to be distinctly marked or separated, so as to be readily capable of identification from the papers and material the property of the State: *Provided*, That

Deposits by
private parties.

Id., § 6.

A. D. 1912.

all such papers and historical materials so received for custody and safe keeping shall be at all times open to inspection and examination, for the purposes of historical research, in like manner and under the same rules and regulations as provided for similar materials belonging to the State: *Provided, further,* That neither the State nor the Commission shall be in any wise responsible or liable for the loss of any such books, papers, manuscripts or material if such loss should occur.

Equipment
of apart-
ments.

Ib., § 7.

Sec. 166. The said Historical Commission are hereby authorized and empowered to furnish and equip the said separate apartments in the State Capitol to be assigned to the Commission for the purpose, with such furniture, shelving, and fireproof arrangements as may be proper and reasonable for the purposes of the custody, preservation and inspection of all of the said archives and historical material, and to keep the same in order, and all such sum or sums as may at any time be appropriated by the General Assembly for the purposes aforesaid or to carry out the intent of this Article shall be paid out by the State Treasurer, in such sums and in such manner as may be authorized by the said Historical Commission.

Clerk not to
do other
work.

Ib., § 8.

Sec. 167. The said Clerk shall not do any additional work for pay and furnish information free to the citizens of South Carolina.

ARTICLE IV.

COMMISSION ON STATE HOUSE AND GROUNDS.

SEC.

- 168. Commission created.
- 169. Qualification of members.
- 170. Term of office.
- 171. Control of grounds.

SEC.

- 172. Organization of Commission.
- 173. To lay off grounds.
- 174. Annual report.

Commission
on State
House and
Grounds cre-
ated.

1907, XXV,
534.

Section 168. A Commission is created to be known as the Commission on State House and Grounds, consisting of three members, to be appointed by the Governor, by and with the advice and consent of the Senate: *Provided,* That at least one member of said Commission shall be a resident and citizen of the city of Columbia.

Sec. 169. The members of said Commission shall be citizens of this State, and shall not, during their term of office, hold any other office of honor or profit under this State, or any County thereof.

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Qualifications of members.

Ib., § 2.

Sec. 170. The term of office of said Commissioners shall commence on the first day of March, 1907, and continue for two years, and until their successors shall be appointed and commissioned, and shall serve without compensation.

Term of office.

Ib., § 3.

Sec. 171. Said Commission shall have control of the State House Grounds.

Duties and powers.

Ib., § 4.

Sec. 172. Said Commission shall meet and organize by the election of one of its members as Chairman as soon as may be convenient after their appointment, prescribe such rules as they may think proper for the conduct of the business of said Commission, and proceed forthwith to carry out the provisions of this Article.

Organization.

Ib., § 5.

Sec. 173. It shall be the duty of said Commission to proceed to employ a competent landscape gardener to lay off and beautify said Grounds, and also to have the walks through the Grounds suitably paved, and to employ such help as the Commission shall think necessary, or let said work to the lowest responsible bidder, upon plans and specifications to be approved by said Commission.

To lay off State House grounds.

Ib., § 7.

Sec. 174. Said Commission shall report to the General Assembly annually an itemized statement of all money expended, together with all its acts and doings in the improvement of said Grounds.

Annual report.

Ib., § 9.

ARTICLE V.

CONFEDERATE INFIRMARY—OTHER PROPERTY OF STATE.

MISCELLANEOUS PROVISIONS.

Sec.

175. Commission for Confederate Infirmary.

176. Members to serve without compensation.

177. *Sullivan's Island*. — Citizens may build dwelling houses on and be allowed half-acre lot adjoining; rent.

178. Hold as tenants, from year to year, but must deliver up on Governor's demand with liberty to remove buildings; assignability, etc., of title; rights and remedies.

Sec.

179. Actual building of dwelling house essential to vest title to lot, within time limited.

180. Manner of building regulated; how enforced.

181. Certain lands in Charleston vested in city.

182. Certain lands in Beaufort vested in town.

183. State House and grounds.

184. Legislative Library.

185. College buildings.

186. Protection of lands from intrusion and nuisance.

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Commission
established to
manage an
infirmary for
Confederate
veterans.

1908. XXV,
1074.

Section 175. A Commission consisting of five members, three of whom shall be ex-Confederate soldiers or sailors, be appointed by the Governor, who are hereby empowered and required to establish and manage an infirmary for the infirm and destitute Confederate sailors and soldiers of the State, on what is known as the Bellevue place on Wallace land, now owned by the State. Said Commission shall prescribe rules regulating admission to said infirmary: *Provided*, That two veterans shall be admitted from each County, on the recommendation of the County Pension Board: *Provided, further*, In case any County Board fails to make such recommendation, the said Commission may fill the vacancy from the same or any other County.

Members to
receive no
compensation.

Id., § 3.

Sec. 176. The members of said Commission shall receive no compensation for their services, but shall be entitled to actual expenses for attending the meetings thereof, to be paid upon the warrant of the Comptroller-General out of any funds in the hands of the State Treasurer not otherwise appropriated.

Sullivan's
Island.

Civ. '02, §
154.

Sec. 177. Such of the citizens of this State as may think it beneficial to their health to reside on Sullivan's Island during the summer season have liberty to build on the said island a dwelling and out-houses for their accommodation; and the person or persons so building shall have the exclusive right to the same, and one-half acre of land adjoining thereto, as long as he, she, or they, may require, for the purposes aforesaid: *Provided*, The person or persons, building as aforesaid, pay to the Treasurer one penny annually, if required, for the use of the said land.

Rights of
dwellers on
Sullivan's Is-
land.

Civ. '02, §
155.

Sec. 178. The present owners of lots on Sullivan's Island, whereon dwelling houses have been erected, and such citizens of this State as may hereafter build dwelling houses upon the said island, under the license granted by the preceding Section, shall be taken and deemed to have, and shall enjoy, the same rights, titles, and interests, as tenants, from year to year, in and to the lots now owned by them, respectively; upon condition, nevertheless, that they shall deliver up the same when demanded by the Governor of this State for the time being—he, she, or they having the liberty of removing the buildings which are now, or may hereafter be, erected on said lots. And the titles thereto shall be assign-

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able, transferable, transmissible, and distributable, as estates for years now are, or hereafter may be, by the laws of this State; and the said owners shall have, take, and enjoy, and be entitled to use and employ all actions, suits and remedies, for securing their quiet and peaceable possession and enjoyment of their said lots, and restitution and redress for any trespass, ouster, or injury which they may suffer, or may be committed upon them, as tenants for years now have, or are entitled to.

Before enactment of this Section the occupants of the island were mere tenants at will of the State, and a parol contract for sale of a house thereon was void under Statute of Frauds.—*Whetmore v. Rhett*, 12 Rich., 565.

Sec. 179. No exclusive right to a lot on the said island shall be obtained by any citizen otherwise than by his actually building a dwelling house thereon; and if such dwelling house shall be removed or destroyed, the owner thereof shall have the exclusive right to rebuild on the same lot for one year thereafter; and if no dwelling house be built by him within that period, such lot shall again be considered as vacant. Civ. '02, § 156.

Sec. 180. Hereafter no person shall erect, or cause to be erected, more than one dwelling house on each half-acre lot in the town of Moultrieville, on Sullivan's Island; and if any person shall build, or attempt to build, such a dwelling house, such person may be compelled to desist from such building, and to remove the same, by the Court of Common Pleas; and it shall be lawful for the Intendant or any one of the Wardens of the said town to execute such order, under the direction of the Sheriff of the County, or his lawful deputy. Sullivan's Island.
Civ. '02, § 157.

Sec. 181. All vacant land, not legally vested in individuals, in the harbor of Charleston, covered by water, is vested in the City of Charleston, for public purposes, but not to be so used or disposed of as to obstruct or injure the navigation of said harbor. Certain lands in Beaufort and Charleston Counties.
Civ. '02, § 158.

Sec. 182. All the land lying directly and immediately in front of the streets, in the town of Beaufort, which run northwardly and southwardly, and which extend to Bay Street, down to the channel of the river lying in front of the said town, whether the same be covered with the waters of the said river or not, shall, forever hereafter, be consid- Id.
Civ. '02, § 159.

A. D. 1912.

ered as the property of, and belonging to, the said town, and shall never be granted by any Governor of this State, or be otherwise vested in any individual or individuals, or any body corporate, unless it be by an Act of the Legislature passed for that purpose. And every grant which may, at any time hereafter, be obtained for any part of the said land, shall be *ipso facto* void.

Such persons as may have obtained a right to any lots opposite the said streets, in the said town of Beaufort, previous to the 21st day of December, 1798, shall be restricted forever from erecting any buildings thereon; and shall be, and are hereby, confined to making any improvements thereon, other than wharves, so as to leave the heads of said streets open and unobstructed.

State House
and Grounds.

Civ. '02, §
160.

Sec. 183. The Secretary of State is *ex officio* Keeper of the State House and Grounds, and shall be charged with the care of the property, including buildings, fencing, and the furniture and fixtures therein. He may make such repairs and improvements thereon as may be necessary for their preservation. He shall be entitled as such Keeper to a salary at the rate of five hundred dollars. Convicts shall be employed in all the labor on and about the State House and Grounds which can be performed by them.

Legislative
Library.

Civ. '02, §
161.

Sec. 184. The sum of five hundred dollars shall be annually appropriated for the purchase of a library for the use of the members of the Senate and House of Representatives of this State.

College
buildings.

Civ. '02, §
162.

Sec. 185. The Comptroller-General shall be, and he is hereby, authorized and required, annually, to insure against fire the college buildings at Columbia.

Protection
of lands from
intrusion and
nuisance.

Civ. '02, §
163.

Sec. 186. The Attorney General may, when, in his judgment, the interest of the State requires it, file and prosecute informations or other process against persons who intrude upon the lands, rights or property of the State, or commit or erect any nuisance thereon.

CHAPTER VII.

The Census.

- Sec.
- 187. Census, when required; to be taken according to this Chapter.
 - 188. Governor appoints Census Takers, who appoint their assistants.
 - 189. Oath of Census Takers and Assistants.
 - 190. Duties of Census Takers.
 - 191. Members of family must give information on oath; penalty.
 - 192. Returns must be deposited with County Auditor under seal.

- Sec.
- 193. Division of County into Census Districts; blanks and instructions; forwarding returns.
 - 194. Secretary of State to prepare books, etc., report results to Governor, and make returns to General Assembly.
 - 195. If Census Takers fail to comply with Census Law, Governor to have census taken.
 - 196. Pay of Census Takers; Secretary of State may employ assistance in making his returns; pay for.

See Constitutional Provision for Census, Constitution 1895, Art. III, Sec. 3.

Section 187. When a census of the inhabitants of the State is required to be taken, in pursuance of the Constitution, it shall be taken and completed according to the provisions of this Chapter.

Census, when required to be taken according to this Chapter.

Sec. 188. The Governor is authorized and required to appoint one person in each County of the State, who shall be charged with taking the census, and who shall be authorized to appoint such assistants as may be necessary.

Civ. '02, § 164.

Governor to appoint an Enumerator in each County.

Sec. 189. Each and every person so appointed to take the census shall, before entering on the duties of his office, take, before some Magistrate, the following oath, to wit: "I, A. B., do solemnly swear (or affirm, as the case may be,) that I will honestly, faithfully, and impartially, take a correct census of all the inhabitants residing within the portion of the County to which I have been appointed as Census Taker, and will, in all respects, truly perform all the duties with which I am charged: So help me God." And a certificate from the Magistrate who shall administer the said oath that the same has been duly taken before him shall accompany and be delivered with each and every return of the census.

Civ. '02, § 165.

Enumerator authorized to appoint assistants.

Civ. '02, § 166.

Enumerator and assistants to take an oath. Certificate of oath must accompany census return.

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Duties of
Census Tak-
ers.

Civ. '02, §
167.

Sec. 190. It shall be the duty of each and every person appointed to take the census, to call personally on the head, or some member, of each family in the County, or portion of the County for which he or they shall have been appointed, and obtain from such head of a family, or member thereof, as aforesaid, the number of persons contained in such family, and such information as may be required and directed by the Secretary of State.

Members of
families re-
quired to give
information
under oath.
Penalty.

Civ. '02, §
168.

Sec. 191. Each head, or member, of a family, shall, when called on by the persons appointed to take the census, at their residence or place of business, make, on oath or affirmation, a correct return of all persons of whom the family is composed, and also report such other information to said so appointed to take the census are hereby authorized to Census Takers as may be required by law; and the persons administer such oaths; and upon the failure of any person to make such returns or reports, when required, such person shall be subject to a penalty of twenty-five dollars, to be recovered in any Court of competent jurisdiction.

Returns to
be deposited
with County
Auditor under
seal.

Civ. '02, §
169.

Sec. 192. Upon the completion of such returns and reports, each Census Taker shall deposit the same, in a sealed package, with the Auditor of his County, accompanied by a certificate, to be endorsed by some Magistrate, purporting that the following oath had been duly taken by such Census Taker previous to the delivery of such package to said Auditor, to wit: "I, A. B., do solemnly swear (or affirm, as the case may be,) that this packet contains a just, true, correct and impartial return of all the inhabitants of the census district to which I have been appointed, and a faithful report of such information as was required by the Secretary of State, so far as it was practicable to obtain the same: So help me God."

County to be
divided into
census dis-
tricts. Blanks
and instruc-
tions. Returns
to be forward-
ed to the Sec-
retary of
State.

Civ. '02, §
170.

Sec. 193. It shall be the duty of the Census Takers for the County, under the direction of the Secretary of State, to divide their several Counties into convenient districts for taking the census, to distribute blanks, books, and instructions to the Census Takers, to receive their returns, which shall be completed and forwarded on or before 15th day of September to the Secretary of State, and to render such further assistance to said Secretary in the premises as that officer may direct.

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Sec. 194. It shall be the duty of the Secretary of State to have prepared and forwarded to the Census Takers of each county suitable books, blanks and instructions to facilitate the registration provided for herein, and the collection of such statistical information as the Secretary of State may deem of sufficient importance to the people of this State; and when the Census Takers shall have made the returns hereinbefore provided for, the said Secretary of State shall forthwith report the results of such registration to the Governor of the State for the time being, and shall make a collated return of the statistics to the General Assembly within one week after the beginning of the next regular session.

Secretary of State to prepare books, etc., report results to Governor, and make return to General Assembly.

Civ. '02, § 171.

Sec. 195. The Governor of the State for the time being shall, immediately after receiving from the Secretary of State the said report, examine the same, and in case it shall appear to him that any person or persons appointed to take the census as aforesaid shall in anywise have failed to comply with the duties imposed on him or them, either in taking the census or in making returns, he shall forthwith cause the same to be taken and returned wherever such defaults shall have been made.

If Census Takers fail to comply with census law, Governor to have census taken.

Civ. '02, § 172.

Sec. 196. The Census Takers employed in taking the census shall be entitled to receive as compensation in full for all services rendered the sum of five (5) cents for every name taken, registered and returned in their reports to the Secretary of State—said compensation to be paid upon warrants to be drawn by the Comptroller-General whenever he shall have received satisfactory proof that the services of the claimant have been faithfully rendered; and the Secretary of State is hereby authorized to employ such clerical service as will be necessary to assist him in collating and making his returns to the Governor and General Assembly, such service to be paid, on the Comptroller-General's warrant, on the application of the Secretary of State: *Provided*, That the said clerical services shall not exceed the sum of three hundred dollars.

Pay of Census Takers; Commissioner may employ assistance to make census returns.

Civ. '02, § 173.

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TITLE II. OF ELECTIONS.

CHAPTER VIII. *The Qualification and Registration of Electors.*

CHAPTER IX. *Location and Names of Voting Precincts.*

CHAPTER X. *The Manner of Conducting Elections and Returning Votes.*

CHAPTER XI. *The Election of Representatives in Congress and Electors of President and Vice President.*

CHAPTER XII. *The Election of County Officers.*

CHAPTER XIII. *Primary Elections.*

CHAPTER VIII.

The Qualification and Registration of Electors.

SEC.

- 197. Qualification of Electors.
- 198. Electors to be registered.
- 199. Board of Registration, appointment, term of office.
- 200. Compensation of.
- 201. Registration Books; preparation of.
- 202. Opening and closing of books regulated.
- 203. Duties Boards of Registration; appeals from.
- 204. Persons registered before 1898; rights, etc.
- 205. Persons registered since 1898; rights, etc.
- 206. Enrollment of registered voters; when made.
- 207. Minors may be registered if of age before next general election.
- 208. Certificates of Registration.
- 209. Transfer; voters moving from one County to another.

SEC.

- 223. Managers of municipal elections to be furnished registration books.

SEC.

- 210. Revision of list of electors.
- 211. Clerk of Court to report list of persons convicted of disqualifying crimes.
- 212. Magistrates to make similar reports.
- 213. Effect of such reports as evidence.
- 214. Where electors may vote.
- 215. Where registration books shall be deposited.
- 216. When furnished commissioners of election.
- 217. Who may vote in municipal elections.
- 218. Registration for municipal elections.
- 219. Books for, etc.
- 220. Qualifications of electors in.
- 221. Voting places in.
- 222. Certificates of Registration in.

SEC.

- 224. Oath required of applicant for registration.
- 225. Each Township a polling precinct.

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For violation of registration laws see Criminal Code §§ 870 to 872.

The constitutionality of the former registration law was attempted to be raised before the Courts in *Butler v. Ellerbe*, 44 S. C., 256; 22 S. E., 425; but was not considered by the Court.

Section 197. Every male citizen of this State and the United States twenty-one years of age and upwards, not laboring under disabilities named in the Constitution of 1895 of this State, who shall have been a resident in the State for two years, in the County one year, in the polling precinct in which the elector offers to vote four months before any election, and shall have paid six months before any election any poll tax then due and payable, and who can both read and write any Section of the said Constitution submitted to him by the registration officer or officers, or can show that he owns, and has paid all taxes collectible during the previous year on property in this State assessed at three hundred dollars or more, and who shall apply for registration, shall be registered: *Provided*, That ministers in charge of an organized church and teachers of public schools shall be entitled to vote after six months' residence in the State if otherwise qualified: *Provided, further*, That persons who are idiots, insane, paupers supported at the public expense, and persons confined in any public prison shall be disqualified from being registered or voting: *And provided, further*, That persons convicted of burglary, arson, obtaining goods or money under false pretenses, perjury, forgery, robbery, bribery, adultery, bigamy, wife-beating, housebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, miscegenation and larceny, or crimes against the election laws, shall be disqualified from being registered or voting, unless such disqualification shall have been removed by the pardon of the Governor.

Qualifications for registration after January 1st, 1898.

Civ. '02, § 174.

Who are disqualified.

As to residence, see *Estopinal v. Michel*, 19 L. R. A. (N. S.), 759.

Sec. 198. No person shall be allowed to vote at any election hereafter to be held unless he shall have been registered as herein required.

No person to vote unless registered.

Civ. '02, § 175.

Sec. 199. Between the first day of January and the fifteenth day of March, eighteen hundred and ninety-eight, and between said dates in every second year thereafter, the Governor shall appoint, by and with the advice and consent

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Boards of
registration,
appointment
of, duties of,
term of of-
fice, etc.

Civ. '02, §
176.

of the Senate, if in session, and if not in session subject to its approval at its next session, subject to removal by the Governor for incapacity, misconduct or neglect of duty, three competent and discreet persons in each County, who shall be citizens and qualified electors thereof, and who shall be known as the Board of Registration of County, whose duty it shall be to register and to conduct the registration of the electors who shall apply for registration in such County as herein required. Their office shall be at the county seat, and they shall keep record of all their official acts and proceedings. Their term of office shall be for two years from the date of their appointment, and they shall continue in office until their successors shall have been appointed and shall qualify: *Provided*, That in case of a vacancy from any cause in the office of Board of Registration, the Governor shall fill such vacancy, by and with the consent of the Senate as aforesaid.

Compensa-
tion of mem-
bers of Boards
of Registra-
tion.

Civ. '02, §
177.

Sec. 200. The compensation of each member of the Boards of Registration to be appointed under Section 199 shall be one hundred dollars for each election year and fifty dollars for each off year. The said compensation or salaries shall be paid quarterly by the State Treasurer upon the warrant of the Comptroller-General. The said Boards of Registration shall keep their offices open on the days required by law from nine o'clock in the forenoon until five o'clock in the afternoon.

Books and
blanks to be
prepared.

Civ. '02, §
178.

Sec. 201. The Secretary of State shall cause to be prepared a sufficient number of registration books and blanks, so that there shall be two of said books for each voting place in each voting precinct in each County, which books shall be ruled in columns, with proper headings, so as to indicate the name, age and place of residence of each registered elector in such polling precinct, with a separate column at the right side of the page for such entries or remarks as may be necessary. He shall also cause to be prepared two books for each County, in which shall be entered the names of all persons registered up to the first day of January, eighteen hundred and ninety-eight, which books when prepared by the Board of Registration to be appointed under Section 3 of an Act to provide for the registration of all electors in this State qualified to vote in

A. D. 1912.

tate, County, Municipal, Congressional and Presidential elections, approved 5th March, 1896, and sworn to by the members of said Boards, shall be filed on or before February 1st, eighteen hundred and ninety-eight, one in the office of the Secretary of State and one in the office of the Clerk of the Court of Common Pleas for each County. He shall also cause to be prepared such books and blanks as may be necessary for the registration of electors after the first of January, eighteen hundred and ninety-eight, and he shall at any time provide additional books or blanks to supply the places of such as may be defaced, destroyed, mutilated or filled up.

Sec. 202. The Supervisors of Registration for the several Counties of this State shall in every general election year, or in any year in which any special election is to be held subsequent to the first day of September, hold in each and every town, city, or industrial community containing three hundred inhabitants or more, in their respective Counties, at such time as may be designated by the Board of Registration, after two weeks' notice published or posted in such town or city, one meeting, at which shall be registered such qualified electors of the County as may present themselves. The books of registration shall also be opened on the first Monday of each month, at the Court House, for the registration of electors entitled to registration under said Constitution, and be kept open for three successive days in each and every month until thirty days before a general election, when they shall be closed until the general election shall have taken place: *Provided*, That such persons as shall become of age during the said thirty days shall be entitled to registration before the closing of the books, if otherwise qualified. After each general election the registration books shall be opened for the registration of electors entitled to registration under the Constitution, on the first Monday in each month, at the Court House, until thirty days preceding any general election, when the same shall be closed until said general election shall have taken place. The registration books shall be in like manner closed thirty days before any special election. In those Counties of this State having more than fifty thousand inhabitants, as shown by the last preceding United States Census, in every general election

Registration
books; when
opened.

1907, XXV,
648.

A. D. 1912.

year, when the registration books are opened in the month of August, they shall be kept open continuously every day except Sunday, at the Court House, up to and including the 15th day of August of said year for the registration of qualified electors, and this particular provision shall in nowise affect the registration of electors in the Counties having less than fifty thousand inhabitants, and any additional cost incurred by reason of the particular provision in regard to keeping of books open in August in those Counties of over fifty thousand inhabitants shall be paid by such respective Counties. In Sumter County the Supervisors of Registration may attend at least one day at some public place in each voting precinct in said County, of which due notice shall be given.

Duties of
Boards of
Registration.

Right of ap-
peal.

Civ. '02, §
180.

Appeal, how
taken.

When heard
at chambers.

Right of ap-
peal to Su-
preme Court.

Sec. 203. The Boards of Registration to be appointed under Section 3 of said Act shall up to and including the first January, 1898, judge of the qualifications of all applicants for registration. Any person denied registration shall have the right of appeal from the decision of the Board of Registration denying him registration to the Court of Common Pleas of the County or any Judge thereof, and thence to the Supreme Court; and on such appeal the hearing shall be *de novo*. Any person denied registration and desiring to appeal must within ten days after the decision of the Board of Registration is made file with the said Board a written notice of such notice of his intention to appeal therefrom. After the expiration of ten days from the filing of such notice of intention to appeal the Board of Registration shall file with the Clerk of the Court of Common Pleas for the County the notice of intention to appeal and any papers in their possession relating to the case, and a report of the case if they deem proper. The Clerk of the Court shall file the same and enter the case on a special docket to be known as Calendar No. 4. If the appellant desires the appeal to be heard by a Judge at chambers he shall give every member of the Board of Registration four days' written notice of the time and place of the hearing. From the decision of the Court of Common Pleas, or any Judge thereof, the appellant or any duly qualified elector of the County may further appeal to the Supreme Court by filing a written notice of his intention to appeal

A. D. 1912.

herefrom in the office of the Clerk of the Court of Common Pleas within ten days after such decision is filed, and within said time serving a copy of such notice on every member of the Board of Registration. Thereupon the Clerk of the Court of Common Pleas shall certify all the papers in the case to the Clerk of the Supreme Court within ten days after the filing of such notice of intention to appeal. The Clerk of the Supreme Court shall place the case on a special docket, and it shall come up for hearing upon the call thereof, under such rules as the Supreme Court may make. If such appeal be filed with the Clerk of the Supreme Court at a time that a session thereof will not be held between the date of filing and an election, at which the appellant will be entitled to vote if registered, the Chief Justice, or if he is unable to act or disqualified, the senior Associate Justice, shall call an extra term of the Court to hear and determine the case.

How heard.

Sec. 204. All persons registered on or before January first, eighteen hundred and ninety-eight, shall remain during life qualified electors, unless afterwards disqualified by the provisions of the said Constitution. The certificate of the Clerk of the Court, or of the Secretary of State, that the name of any person appears on the books or records hereinbefore required to be filed in their respective offices by the Boards of Registration shall be sufficient evidence to establish the right of such person to any subsequent registration and the franchise under the limitations imposed in the said Constitution.

Registered electors before January, 1898, to remain so.

Civ. '02, § 181.

Right to vote, how established.

Sec. 205. After the first of January, eighteen hundred and ninety-eight, the Board of Registration to be appointed under Section 199 shall judge of the legal qualifications of all applicants for registration. From their decision appeals may be taken to the Court of Common Pleas, or any judge thereof, and thence to the Supreme Court, and the mode of appeal shall be the same as prescribed in Section 203.

Boards to judge the legal qualification of applicants after January, 1898.

Civ. '02, § 182.

Appeals.

Sec. 206. An enrollment of persons, not previously registered, and entitled to registration, shall be made annually by the Board of Registration until the year nineteen hundred and eight, when an enrollment of all electors shall be made, and thereafter there shall be the same annual enrollment of electors and the same general enrollment of electors

Enrollment of registered voters; when made.

1908, XXV, 1019.

A. D. 1912.

Colleton
County.

every tenth year, as above provided: *Provided*, That for the purpose of enrollment and revision of the lists of elector in Colleton County, the Board of Registration of said County shall hold sessions, after two weeks' advertisement for at least one day, at the following places, to wit: Smoak, Ashton, Bells, Hendersonville, Cottageville and Adam Run.

Persons who will be entitled to vote at next election after his application, entitled to be registered.

Civ. '02, §
184.

Sec. 207. In case any person shall not have attained the age of twenty-one years before the closing of the books of registration preceding any election, and shall attain such age before such election, and shall appear before the Board of Registration, and shall make application under oath to the facts above stated entitling him to registration, if he be otherwise duly qualified, the Board of Registration shall register such applicant. Any person not laboring under the disabilities named in the Constitution and whose qualifications as an elector will be completed after the closing of the registration books, but before the next election, shall have the right to apply for and secure a registration certificate at any time within sixty days immediately preceding the closing of such books. From the decision of the Board of Registration a like appeal may be taken as in other cases and in like manner.

Registered voters to be furnished with certificates.

Civ. '02, §
185.

Sec. 208. Each elector registered as aforesaid shall thereupon be furnished by the Board of Registration if registered before or on the first of January, 1898, or by the Boards of Registration if registered after the first day of January, 1898, with a certificate of registration, which shall contain a statement of his name, age and place of residence as entered in the registration books, and such certificate shall be signed by at least two of the members of the Board of Registration. The certificate shall be of the following form:

Form of certificate.—State v. Board of Canvassers, 78 S. C., 467; 59 S. E. 145; 14 L. R. A. (N. S.), 850.

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STATE OF SOUTH CAROLINA.

Registration Certificate No.....

Form of registration certificate.

This is to certify that is a registered elector of the election district of County ofresides in..... township or parish or ward, isyears of age, and is entitled to vote at voting place, in polling precinct, if otherwise qualified.

Registered on the day of, 19..

.....
.....
.....

Members of the Board of Registration ofCounty.

Section 209. In case of the removal of an elector from one County to another he shall notify the Board of Registration of the County to which he has removed, presenting his registration certificate for the County from which he has removed. The said Board of Registration shall take the name of such elector and the number of his certificate, and ascertain in writing from the Board of Registration of the County from which such elector has removed whether he is a duly registered elector of latter County. If found to be duly registered, the Board of the County to which such elector has removed shall register such elector, if otherwise qualified, and notify the Board of the County from which he has removed that he has been so registered, whereupon his name shall be stricken from the books of the latter County.

How one moving from one County to another may have certificate changed.
Civ. '02, § 186.

Every registered elector shall be entitled to a renewal of his certificate without fee or charge, when the same becomes defaced or mutilated, upon the surrender of such defaced or mutilated certificate to the Board of Registration, if he is still a qualified elector under the provisions of said Constitution or if he has been registered under said provisions before the 1st January, 1898. In case of the loss of or

Renewal of certificate, how and when made.

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destruction of a certificate, any elector registered on or before the first of January, 1898, he shall be entitled to another certificate of registration upon application and proof of destruction or loss on presenting to the Board of Registration a certificate of the Clerk of the Court of Common Pleas of his County, or of the Secretary of State, that his name appears as a registered voter on the books or records filed in their respective offices, if still otherwise qualified. And any elector registered after the first of January, 1898, shall be entitled to another certificate of registration, upon application and proof of such destruction or loss, if his name appears upon the annual or general enrollment made by the Board of Registration, and if otherwise still qualified. Any such elector shall have a like right of appeal from the decision of the Board of Registration as in cases of original registration.

The Clerk's certificate does not give the holder a right to vote, but only establishes his right to registration.—State v. Canvassers, 78 S. C., 461; 59 S. E., 145; 14 L. R. A., (N. S.), 850. Persons registered prior to 1898 may vote, though names not on books.—State v. Canvassers, 79 S. C., 249; 60 S. E., 699. Irregularities in issuing certificates not necessarily fatal to election.—*Id.*

Board to re-
vise list of
electors.

Civ. '02, §
187.

Sec. 210. The Board of Registration shall revise the list of registered electors at least ten days preceding each election, and shall erase therefrom the names of all registered electors who may have become disqualified, or who, upon satisfactory evidence, may appear to have died, or removed from their respective Counties, or who may have been illegally or fraudulently registered: *Provided*, That any one who may deem himself injured by such an act may have the same right of appeal to the Court of Common Pleas or any Judge thereof, as hereinbefore provided for persons who have been denied registration.

Right of ap-
peal.

Clerk of
Court of Gen-
eral Sessions
to report all
male persons
convicted of
disqualifying
crime.

Civ. '02, §
188.

Sec. 211. The Clerk of the Court of General Sessions and Common Pleas for each County shall on or before the fifteenth day of October, 1902, and biennially thereafter on or before the same day of the same month, make out and report to the Boards of Registration for their respective Counties a complete list of all male persons convicted prior to the first day of October, 1896, and during every two years thereafter of the following offenses, to wit: Burglary, arson, obtaining goods or money under false pretenses, per-

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ury, forgery, robbery, bribery, adultery, bigamy, wife beating, housebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, miscegenation, and larceny, or crimes against the election laws. Such report must be accompanied by the certificate of the Clerk that the report is correct as appears from the records of his office.

Sec. 212. Every Magistrate in the State shall on or before the fifteenth day of October, 1902, and biennially hereafter on or before the same day of the same month, make out under his hand and seal, and report to the Board of Registration of his County, a complete list of all the male persons convicted before him of any of the offenses mentioned in the preceding Section prior to the first day of October, 1902, and during every two years thereafter, or before any of his predecessors whose trial docket is in his possession during the two preceding years, or the period following his last previous report, or the last previous report by his predecessor. Any Magistrate or Clerk of the Court who shall fail to make or neglect to make such report as required by this and the preceding Section shall forfeit and pay to the County in which he holds his office the sum of fifty dollars for each and every such failure or neglect to make such report.

Magistrates
to make simi-
lar reports.Civ. '02, §
189.

Sec. 213. The reports provided for in the two preceding Sections shall be received by the Board of Registration as *prima facie* evidence of the facts stated therein, and the said Board shall immediately erase the names of all such persons from the registration books or records in their County, and such person shall not be thereafter allowed to register or to vote unless such person shall present to the Board a pardon from the Governor or shall prove that they were never convicted of the offenses stated in such certificate, in which cases their names shall thereupon be restored to the registration books or records as completely and effectually as if it had never been stricken therefrom. The said Boards are required whenever the names of any electors are thus stricken from the books of registration to furnish a list of such names to the Clerk of Court and the Secretary of State, and they shall erase from the record of registered electors on file in their respective offices the names of such electors.

Such reports
prima facie
evidence.Civ. '02, §
190.Such persons
not allowed
to register or
vote unless
pardoned.

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Places for
voting.Civ. '02, §
191.Removal from
one voting
place to an-
other.Elector may
vote at near-
est poll.Books to be
deposited
with Clerk of
Court.Civ. '02, §
192.To be public
records; how
kept.

Sec. 214. Every elector shall vote at the polling place in the polling precinct at which and in which his registration certificate entitled him to vote. When a new voting precinct is established by law it shall be the duty of the Board of Registration to transfer from the books of registration the names of such electors registered to vote in other voting precincts as should hereunder register and vote in the new voting precinct, and to issue to such electors as may apply new registration certificates for such new polling precinct, and such elector shall thereafter vote in the new polling precinct to which they have been transferred. In case of the removal of an elector from one precinct to another in the same County, such elector shall notify the Board of Registration of such County, and surrender his certificate. And the said Board shall note the fact upon the proper book and give to the elector a certificate for registration for the precinct into which he has removed. When one voting place has been changed to another in the same township or polling precinct, or where the name of the voting place has been changed since the last general election, the registration of electors for the former voting place shall be valid and effectual for the new voting place. Any registered elector who may reside nearer to a voting place in his polling precinct than the one at which he is entitled to vote, and desires to vote at such nearer voting place, shall, upon the surrender of his certificate of registration, be entitled to a new certificate entitling him to vote at such nearer voting place.

Sec. 215. The Board of Registration shall deposit the books and other records of registration for safe-keeping in the office of the Clerk of the Court of Common Pleas for their County, who shall keep the same with the other records in said office.

The registration books and records shall be public records open to the inspection of any citizen at all times, and shall not be removed from the office of the Clerk of the Court by any person except the Board of Registration who are authorized to take and keep the same as long as may be necessary to enable them to perform the duties herein imposed on them: *Provided*, That the books and records of registration shall not be kept anywhere else than in the

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office of the Clerk of the Court of Common Pleas or in the office of the Board of Registration except when used by the Board in the several polling precincts as required by this Article.

Sec. 216. Immediately preceding each general election or any special election, the Board of Registration shall furnish to the Commissioners of Election for their County two registration books for each polling precinct in their County, containing in each the names of all electors entitled to vote at such precinct; and no elector shall vote in any polling precinct unless his name appears on the registration books for that precinct: *Provided*, That in case the name of any registered elector does not appear, or incorrectly appears, on the registration books of his polling precinct, he shall, nevertheless, be entitled to vote upon the production and presentation to the Managers of Election of such precinct (in addition to his registration certificate) of a certificate of the Clerk of Court of Common Pleas that his name is enrolled in the registration book or record of his County on file in said Clerk's office, or a certificate of the Secretary of State that his name is enrolled in the registration book or record of his County on file in the office of the Secretary of State, or prior to the filing of such books or records on or before the first of February, 1898, in the offices of the Clerk and Secretary of State a certificate of a member of the Board of Registration of his County that his name is enrolled on the County registration book or records; and it shall be the duty of the Clerk or the Secretary of State, or a member of the Board of Registration, to furnish such certificate without cost or charge upon demand of any such elector whose name appears upon the registration books or records of his County on file in the office of the Clerk of Court or in the office of the Secretary of State. The Commissioners of Election shall turn over said books to the Managers of Election of each polling precinct, who shall be responsible for the care and custody of said books and the return thereof to the Commissioners within three days after such election. The Commissioners of Election shall return such books to the Board of Registration within twenty days after such election.

Registration books to be furnished for each precinct.

Civ. '02, § 193.

Who may vote.

Commissioners of Election to turn over said books to the Managers.

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Clerk's certificate as to registration of voter.—State v. Board of Canvassers, 79 S. C., 246; 60 S. E., 699.

Who entitled
to vote in mu-
nicipal elec-
tions.

Civ. '02, §
194.

Sec. 217. Every male citizen of this State and of the United States of the age of twenty-one years and upwards, having all the qualifications mentioned in Section 197, and who has resided within the corporate limits of any incorporated city or town in this State for four months previous to any municipal election, and has paid all taxes due and collectible for the preceding fiscal year, and who has been registered as hereinafter required, shall be entitled to vote at all municipal elections of his city or town.

Municipal
registration;
how made.

1908, XXV,
1026.

Sec. 218. Ninety days before the holding of a regular election in any incorporated city or town in this State the Mayor or Intendant thereof shall appoint one discreet individual, who is a qualified elector of such municipality, as Supervisor of Registration for such city or town, who shall hold office for the term of two years and until his successor has been appointed and qualified, and who shall receive as compensation for his services one dollar per day for each day actually engaged in the discharge of his duties, to be paid by the town or city, whose duty it shall be to register all qualified electors within the limit of the incorporated city or town. The names of all qualified electors of such municipality shall be entered in a book of registration, which at least one week before the election, and immediately after the holding of the election, shall be filed in the office of the Clerk or Recorder of such city or town, and shall be a public record open to the inspection of any citizen at all times: *Provided*, That twenty days prior to any special election to be held as aforesaid the books of registration shall be opened for the registration of the names of qualified electors therein, and shall remain open for a period of ten days: *Provided*, That in cities of over fifty thousand inhabitants there shall be appointed three Supervisors, who shall represent different political parties or factions of parties. Immediately preceding any municipal election to be held in any incorporated city or town in this State, the Supervisor or Supervisors of Registration (as the case may be) shall prepare for the use of the managers of election of each polling precinct in such city or town a registration book or books for each polling precinct in such city or town,

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containing the names of all electors entitled to vote in such polling precinct at said election.

Sec. 219. It shall be the duty of the Mayor or Intendant of incorporated cities or towns to cause to be prepared and furnished suitable books of registration and all stationery and blanks necessary for the registration of electors.

Books, etc.,
to be furnish-
ed.
Civ. '02, §
196.

Sec. 220. The Supervisor or Supervisors of Registration (as the case may be) shall judge of the qualifications of all applicants for registration. The production of a certificate of registration from the Board or Supervisor of Registration of the County entitling the applicant to vote in a polling precinct within the incorporated city or town in which the applicant desires to vote shall be a condition prerequisite to the applicant's obtaining a certificate of registration for municipal elections; and the production of such certificate and proof of his residence within the limits of the municipality for four months preceding such election and the payment of all taxes assessed against him due and collectible for the previous fiscal year shall entitle the applicant to registration. From the decision of the municipal Supervisor any applicant may appeal to the Court of Common Pleas, or any Judge thereof, and from thence to the Supreme Court, and the mode of appeal shall be the same as provided in Section 203.

Qualifications
for registra-
tion; how de-
termined.
Civ. '02, §
197.

Appeals.

Sec. 221. In incorporated cities or towns in which there are more than one polling precinct, every elector shall vote at the polling precinct in which his registration certificate entitles him to vote.

Place of vot-
ing.
Civ. '02, §
198.

Sec. 222. Each elector registered by the municipal Supervisor or Supervisors of Registration (as the case may be) shall be furnished by such Supervisor or Supervisors (as the case may be) with a certificate, which shall be of the following form:

Elector to
have certifi-
cate.
Civ. '02, §
199.

STATE OF SOUTH CAROLINA, CITY OR TOWN OF..... Form of.

REGISTRATION CERTIFICATE FOR MUNICIPAL ELECTION,

NUMBER....., WARD.....

This is to certify that.....is a qualified elector of the city or town of....., resides in Ward....., is.....

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years of age, and is entitled to vote in the municipal election on the.....day of....., 1....

Registered on the.....day of....., 1....

.....
"Supervisor of Registration."

.....
or

.....
"Supervisors of Registration."

Managers of Election to be furnished with registration books.

Civ. '02, § 200.

Sec. 223. Before any municipal election to be held in any incorporated city or town in this State after the general election of 1896, the municipal Supervisor or Supervisors of Registration (as the case may be) shall furnish the Managers of Elections with the book or books of registration for the city or town or precinct thereof, prepared by him or them for the use of the Managers of Election as prescribed in the preceding Section, 218, which they shall return to the Supervisor or Supervisors (as the case may be) within three days after the election; and no elector shall be allowed to vote in any municipal election whose name is not registered as herein provided, or who does not produce a municipal registration certificate at the polls: *Provided*, That in case the name of any registered elector does not appear, or incorrectly appears, on the registration books of his polling precinct, he shall nevertheless be entitled to vote, upon the production and presentation to the Managers of Election of such precinct (in addition to his municipal registration certificate) a certificate of the Clerk or Recorder of such city or town that his name is enrolled in the registration books of his city or town, on file in the office of said Clerk or Recorder, and it shall be the duty of said Clerk or Recorder to furnish such certificate without cost or charge upon demand of any such elector whose name appears on the registration book of his city or town on file in the office of said Clerk or Recorder.

Sec. 224. Every applicant for registration, including municipal registration, shall first take the following oath,

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be administered to him by the Board or the Supervisor, Supervisors of Registration (as the case may be): "I do solemnly swear (or affirm) that I am a male citizen of this State and of the United States; that I am twenty-one years of age or more; that I have resided in this State for two years, and in this County for one year, and in the polling precinct in which I apply to be registered and in which I will offer to vote if registered for four months; and that I have not been convicted of burglary, arson, obtaining goods or money under false pretences, perjury, forgery, robbery, bribery, adultery, bigamy, wife beating, housebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, miscegenation, larceny, or crimes against the election laws."

Oath required of applicant.

Civ. '02, § 201.

Sec. 225. Each township as now or hereafter laid out and defined in the several Counties of this State, and in those Counties where there are no such townships, the parish as formerly known and defined, is declared a polling precinct. In all cities and towns containing five thousand inhabitants or more, where the same is divided into wards, each ward shall be a polling precinct; and in the city of Charleston the polling precincts shall be the same as the voting precincts now established in the several wards of said city by law, and in the County of Richland that portion of Columbia Township outside of the corporate limits of the city of Columbia (as the said limits are now or may hereafter be by law established) shall constitute a separate polling precinct. The voting places within these polling precincts shall be the same as now or hereafter established by law: *Provided*, When there are more than one voting place in the polling precincts the electors for that precinct can vote at either polling place, to be designated on his certificate of registration by Board of Registration or Supervisor of Registration.

Each Township a polling precinct.

Civ. '02, § 202.

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CHAPTER IX.

Location and Names of Voting Precincts.

Sec.

226. Location and names of voting precincts.

Sec.

227. Registration certificates may be changed; when.

Names and location of voting precincts.

Civ. '02, § 203.

Abbeville.

1904, XXIV, 507; 1910, XXVI, 770.

Section 226. At all general elections held in this State the same shall be conducted at the voting precincts which are hereby fixed by law, in the various Counties, cities and towns of this State, the number, location and names of which are, and shall be, as hereinafter designated, to wit:

Abbeville. Abbeville—In the County of Abbeville, there shall be voting precincts as follows: Abbeville Court House, Antreville, Mount Carmel, Willington, Due West, Donaldsville, Lowndesville, Magnolia, Central School House in Long Cane Township, Clotworthy's Cross Roads, McCormick, Bryant's Cross Roads, Keowee, Rock Springs, Cheatam's Mill, Little River School House in Due West Township, and Young's School House.

Aiken.

1908, XXV, 1059.

Aiken. Aiken—In the County of Aiken there shall be the following voting precincts: Aiken Court House, Oakwood, Bath Mills, Kaolin, Banks' Mill, Creed's Store, Eureka, Fountain Academy, Graniteville, North Augusta, Kneece's Mill, Langley, Talatha Postoffice, Bloomingdale, Montmorenci, Shaw's Fork, Oak Grove School House, Otts School House, Page & Hankinson's Store, Perry, Salleys, Seivern, Silverton, Sunnyside, Wagener, Windsor, Vaocluse, Ellenton, White Pond, Kitching's Mill, Lybrand and Warrenville.

Anderson.

1910, XXVI, 770.

Anderson. Anderson—In the County of Anderson there shall be voting places as follows: Anderson Court House, Belton, Craytonville, Pendleton, Centerville, Sandy Springs, Five Forks, Hopewell Springs, Slabtown, Williamston, Honea Path, Martin's Store, Milfords, Cedar Wreath, Moffettsville, Williford's Store, Broyle's Mill, Starr, Tugaloo Academy, Iva, Piedmont Mills, Holland's Store, Pelzer, Hunter's Springs, Flat Rock, Neals Creek Church, Cedar Grove, Bethany, Townville, Mount Tabor, Orr Mills, Gluck Mills,

Pelzer Mill No. 4, Piercetown, Toxaway Mill, Anderson Cotton Mills, Brogon Mill, Concrete, Belton Mills, Williamston Mills, Old Friendship School House, Whitefield Church, Grove School House, White Plains, Toney Creek, Three and Twenty and Long Branch.

Bamberg—In the County of Bamberg there shall be voting precincts as follows: Bamberg, Denmark, Ola, Midway, Ehrhardt, Kearn's Mill, Farrell's Store, Lee's and Govan. Bamberg.
1904, XXIV,
507.

Barnwell—In the County of Barnwell there shall be the following voting places: Allendale, Barnwell, Beldoc, Blackville, Bull Pond Club House in Bull Pond Township, Jerry, Snelling, Robbins, Kline, Dunbarton, Tinker's Creek School House, Sycamore, Ulmers, Millett, Williston, Elko, Hercules Creek School House in Fairfax. Barnwell.
1905, XXIV,
946.

Beaufort—In the County of Beaufort there shall be the following voting places: Beaufort No. 1, at or near Beaufort Court House, Beaufort No. 2, at or near the Townhall, Port Royal, Grahamville, Tomotley, Hardeeville, Bluffton, Barrel Landing, Lady's Island, Cherry Hill, Brick Church, Paris Island and Benjie Point. Beaufort.
1910, XXVI,
768.

Berkeley—In the County of Berkeley there shall be voting places as follows: In the parishes of St. Thomas and St. Dennis, Cainhoy and Bate's Still; in the parish of St. James, Santee, Honey Hill; in the parish of St. Stephens, St. Stephens, Gumville, Pineville and Bethera; in the parish of St. John's Berkeley, Eutawville, Calamus Pond, Pinopolis, Cross Graded School and Biggin Church; and in the parish of St. James Goose Creek, Holly Hill, Hilton's Cross Roads, Cooper's Store and Carns' Cross Roads. Berkeley.
1909, XXVI,
68.

Calhoun—In the County of Calhoun there shall be voting precincts as follows: Cameron, Fall Branch, Fort Motte, Lone Star, St. Matthews, Red Store, Murph's Mill and Center Hill. Calhoun.
1910, XXVI,
767.

Charleston—In the County of Charleston, outside the corporate limits of the city of Charleston, there shall be voting places as follows: Public School House grounds on James Island, Moultrieville, McClellanville, at or near Awendaw Bridge, in the parish of St. James Santee; Mount Pleasant, in Christ Church Parish; Brick Church, in St. Andrew's Charleston.
1896, XXII,
50.

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Precincts to
conform to
Wards.1890, XX,
713.First precinct
of Ward 1.

Polling place.

Second pre-
cinct of Ward
1.

Polling place.

First precinct
of Ward 2.

Polling place.

Second pre-
cinct of Ward
2.

Polling place.

First precinct
of Ward 3.

Polling place.

Second pre-
cinct of Ward
3.

Parish; Cedar Springs, on John's Island; Enterprise Post-office, on Wadmalaw Island; Camp Ground, on Edisto Island; and on Meeting Street Road outside of the corporate limits of the city of Charleston, and at the nearest available place to said corporate limits: *Provided*, That nothing herein contained shall be construed to vary or affect the location of the voting precincts within the limits of the city of Charleston as now established by law. The registration and voting precincts in the County of Charleston within the limits of the city of Charleston shall hereafter conform to the Wards in which the city of Charleston is now by law divided, and registration and voting precincts are hereby established therein, as follows: The first precinct of Ward One shall embrace all that portion of said Ward south of Broad street, east of Church street to Water street, south of Water street to Meeting street, east of Meeting street to South Bay street. The poll shall be held at or near the corner of Church and Water streets. The second precinct of Ward One shall embrace all that portion of said Ward south of Broad street, east of King street, west of Church street to Water street to Meeting street, west of Meeting street to South Bay street. The poll shall be held at or near the corner of Meeting and Tradd streets. The first precinct of Ward Two shall embrace all that portion of said Ward south of Broad street, west of King street to South Bay street, including south side of said street to Ashley River. east of Legare street to Tradd street, north of Tradd to Logan street, east of Logan to Broad street. The poll shall be held at or near the corner of King and Tradd streets. The second precinct of Ward Two shall embrace all that portion of said Ward south of Broad street, west of Logan street to Tradd street, south of Tradd to Legare street, west of Legare street to Ashley River. The poll shall be held at or near the corner of New and Broad streets. The first precinct of Ward Three shall embrace all that portion of said Ward north of Broad street, south of Hasel street, east of Church street and Maiden Lane. The poll shall be held at or near the corner of State and Cumberland streets. The second precinct of Ward Three shall embrace all that portion of said Ward north of Broad street, south of Hasel street, east of Church street and Maiden Lane and east of

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King street. The poll shall be held at Market Hall. The first precinct of Ward Four shall embrace all that portion of said Ward north of Broad street, south of Wentworth street, west of King street and east of Mazyck and Coming streets. The poll shall be held at or near the corner of Archdale and Beaufain streets. The second precinct of Ward Four shall embrace all that portion of said Ward north of Broad street, south of Wentworth street, west of Mazyck and Coming streets. The poll shall be held at or near the corner of Smith and Beaufain streets. The first precinct of Ward Five shall embrace all that portion of said Ward north of Hasel street, south of Calhoun street and east of Anson street. The poll shall be held at or near the corner of Laurens and Middle streets. The second precinct of Ward Five shall embrace all that portion of said Ward north of Hasel street, south of Calhoun street, west of Anson and east of King street. The poll shall be held at or near the corner of Meeting and Society streets. The first precinct of Ward Six shall embrace all that portion of said Ward north of Wentworth street, south of Calhoun street, west of King street and east of Pitt street. The poll shall be held at or near the corner of George and College streets. The second precinct of Ward Six shall embrace all that portion of said Ward north of Wentworth street, south of Calhoun street and west of Pitt street. The poll shall be held at or near the corner of Bull and Rutledge streets. The first precinct of Ward Seven shall embrace all that portion of said Ward north of Calhoun street, south of Mary street and east of Elizabeth street. The poll shall be held at or near the corner of Alexander and Charlotte streets. The second precinct of Ward Seven shall embrace all that portion of said Ward north of Calhoun street, south of Mary street, west of Elizabeth street and east of King street. The poll shall be held at or near the corner of Hutson and Meeting streets. The first precinct of Ward Eight shall embrace all that portion of said Ward north of Calhoun street, south of Radcliffe street, west of King street and east of Pitt and Thomas streets. The poll shall be held at or near the corner of Vanderhorst and Coming streets. The second precinct of Ward Eight shall embrace all that portion of said Ward north of Calhoun street, south of Radcliffe and Bee streets and west

Polling place.

First precinct of Ward 4.

Polling place.

Second precinct of Ward 4.

Polling place.

First precinct of Ward 5.

Polling place.

Second precinct of Ward 5.

Polling place.

First precinct of Ward 6.

Polling place.

Second precinct of Ward 6.

Polling place.

First precinct of Ward 7.

Polling place.

Second precinct of Ward 7.

Polling place.

First precinct of Ward 8.

Polling place.

Second precinct of Ward 8.

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Polling place.

First precinct
of Ward 9.

Polling place.

Second pre-
cinct of Ward
9.

Polling place.

First precinct
of Ward 10.

Polling place.

Second pre-
cinct of Ward
10.

Polling place.

First precinct
of Ward 11.

Polling place.

Second pre-
cinct of Ward
11.

Polling place.

First precinct
of Ward 12.

Polling place.

Second pre-
cinct of Ward
12.

Polling place.

Cherokee.

1910, XXVI,
787.

of Pitt and Thomas streets. The poll shall be held at or near the corner of Rutledge and Vanderhorst streets. The first precinct of Ward Nine shall embrace all that portion of said Ward north of Mary street, south of Columbus street and east of Nassau and Hanover streets. The poll shall be held at or near the corner of Amherst and America streets. The second precinct of Ward Nine shall embrace all that portion of said Ward north of Columbus street, east of Hanover street to the city boundary. The poll shall be held at or near the corner of America and Cooper streets. The first precinct of Ward Ten shall embrace all that portion of said Ward north of Mary street, south of Columbus street, west of Nassau street and east of King street. The poll shall be held at or near the corner of Wolfe and Meeting streets. The second precinct of Ward Ten shall embrace all that portion of said Ward north of Columbus street, east of King street and west of Hanover street to the city boundary. The poll shall be held at or near the corner of Line and Meeting streets. The first precinct of Ward Eleven shall embrace all that portion of said Ward north of Radcliffe street, south of Spring street, west of King street and east of Rutledge Avenue. The poll shall be held at or near the corner of Morris and Coming streets. The second precinct of Ward Eleven shall embrace all that portion of said Ward north of Spring street, west of King street and east of Rutledge street to the city boundary. The poll shall be held at or near the corner of Line and Coming streets. The first precinct of Ward Twelve shall embrace all that portion of said Ward north of Bee street, west of Rutledge Avenue, east of President street and its line of prolongation to the city boundary. The poll shall be held at or near the corner of Ashley and Spring streets. The second precinct of Ward Twelve shall embrace all that portion of said Ward north of Bee street, west of President street, and its line of prolongation to the city boundary. The poll shall be held at or near the corner of Spring and Norman streets.

Cherokee—In the County of Cherokee there shall be voting places as follows: At Grassy Pond, Maud, Ezells, White Plains, Ravenna, Allen's, at Z. J. Petty's, Draytonsville, Timber Ridge, Littlejohn's, at T. D. Littlejohn's, Sar-ratt, Wilkinsville, King's Creek, Cherokee Falls, Blacks-

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urg, Buffalo, Macedonia, Antioch, Butler, at Butler's School House, Wood, Thickety, Limestone, at Limestone Mills, Gaucher, at C. E. Smith's Store, Pleasant Grove, at Pleasant Grove School House, and one at Metcalf's Store, to be known as Metcalf, and there shall be four voting places in the town of Gaffney, as follows: at Holt's Store, in Ward One, to be known as Gaffney No. 1; one at the National Bank Old Building, to be known as Gaffney No. 2; and one at W. L. Spake's Store, in Ward Five, to be known as Gaffney No. 3; and one at Opera House, to be known as Gaffney No. 4.

Chester—In the County of Chester there shall be voting places as follows: Chester Court House, Lowreyville, Carter's, at J. Wesley Carter's, Land's, Fishing Creek Church, Rodman, on S. A. L. Railroad, Rossville, John Simpson's, Wilksburg, J. E. Wylie's Store, Lansford, Cornwell's, Richburg, Edgemore, Baton Rouge, Ferguson's Store, Fort Lawn, White's Store, Leeds and Great Falls.

Chester.
1910, XXVI,
767.

Chesterfield—In Chesterfield County there shall be voting places as follows: Chesterfield Court House, Cheraw, Marburg, Brooks' Mill, Wexford, Mount Crogan Cross Roads, Ruby, Snow Hill, Jefferson, Catarrh, Dudley, Pageland, McBee, Middendorf, Cat Pond School House, Bethel, Douglass Mill, Grant's Mill, Patric, Odom's Mill, Windzo, and Plains.

Chesterfield.
1910, XXVI,
771.

Clarendon.—In Clarendon County there shall be voting places as follows: Hodges Corner, Packsville, Chandlers, Alcolu, Barron's Mill, New Zion, Turbeville, McFadden's Store, Forrester, Wilson Duffie's Store, Jordon, Manning, Davis Cross Roads, St. Paul's, Summerton, Panola, Davis' Station.

Clarendon.
1906, XXV,
128.

Colleton—In Colleton County there shall be voting places as follows: Warren's Cross Roads, Jacksonboro, Adam's Run, Greenpond, Cottageville, Maple Cane, Horse Pen, Hendersonville, Snyder's Cross Roads, Rice Patch, Belle's Cross Roads, Smoak's Cross Roads, Doctor's Creek, Ashton, Lodge, Petit's Store, People's Club, Williams, Beraror's Church, Walterboro, Hudson's Mill, Ruffin, Ritter, in Verdier Township, and Hickory Hill, in Adam's Run Township, Sidney and Tiger Creek.

Colleton.
1910, XXVI,
768.

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Darlington.1905, XXIV,
946.

Darlington—In the County of Darlington there shall be voting places as follows: Darlington Court House No. 1, Darlington Cotton Mill No. 2, Mechanicsville, Society Hill, Leavensworth, Hartsville, Lydia, Lamar, Garner's Store, Early Cross Roads, Bethlehem Church, in Antioch Township, McColl's Branch, in Philadelphia Township, Palmetto Lumber and Clyde, at Clyde.

Dillon.1910, XXVI,
767.

Dillon—In the County of Dillon there shall be voting places as follows: Bermuda, Fore's Cross Roads, Campbell's Bridge, Centerville, Dillon, Hamer, Gaddy's Mill, Page's Mill, Latta, Little Rock, Fork, Judson, Mt. Calvary, Gin House and Maple Cotton Mill.

Dorchester.1910, XXVI,
768.

Dorchester—In the County of Dorchester there shall be voting places as follows: Cattle Creek School House, in Koger Township, Reevesville, St. George, Grover, Indian Fields, Harleyville, Ross, Pregnall's, Beech Hill, Delamars, Knightsville, Ridgeville, and in the town of Summerville there shall be two (2) voting precincts, No. 1, at the Townhall, near the depot, and No. 2 shall be held at the Old Townhall.

Edgefield.1903, XXIV,
8.

Edgefield—In the County of Edgefield there shall be voting places as follows: Timmerman, Johnston, Trenton, Edgefield C. H., No. 1 for Pickens Township, Edgefield C. H., No. 2 for Wise Township, Meeting Street, Pleasant Lane, Rehoboth, Plum Branch, Modoc, Red Hill, Cheatham's Store, Mathis, Liberty Hill, Meriwether Hall, Landrum's Store, Gregg, Elmwood and Ropers.

Fairfield.1910, XXVI,
768.

Fairfield—In the County of Fairfield there shall be voting places as follows: Albion, at Newhope School House, Centerville School House, Blythewood, Feasterville, Mitford, at Keistler's Store, Horeb, at Hau's Store, Monticello, Ridgeway, Winnsboro, Woodward's, Longtown, at Jenkins' Store, Bear Creek, Cooper School House, Duke School House, Greenbrier, Jackson's Creek School House, Jenkinsville.

Florence.1910, XXVI,
768.

Florence—In the County of Florence there shall be voting places as follows: In the city of Florence there shall be two, No. 1 and No. 2, Ebenezer, Timmons ville, Cartersville, James Cross Roads, Langston School House, Mars Bluff, Evergreen, Hymansville, Cowards, Olanto, Tans Bay, Hannah, Savage, Pleasant Grove, Oak Grove, Back Swamp,

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t McCall's Store, Claussen and Friendfield, at Brooks Cross roads.

Georgetown—In Georgetown County there shall be voting places as follows: Georgetown No. 1, at or near Georgetown Court House; Georgetown No. 2, at or near store of the Southern Mercantile Company; Sampit, Carver's Bay, Choppee, at or near Munnerlyn's Store; Black River, Potato Ferry, Greers, at or near Young's Cross Roads; Murrell's Inlet, Waverly Mills, Santee, Pennyroyal Bridge, Cedar Creek, Bethel Crossing, Rosemary, Snow Mill and Birdfield.

Georgetown.

1907, XXV,
506.

Greenville—In the County of Greenville there shall be voting places as follows: Six in the city of Greenville, to be placed by the Commissioners of Election, one to be in each ward of the city, to bear the same number as the ward in which it is located; Reedy River Mills, West Gantt School House, Reedy Fork, K. S. Chandler's, Fork Shoals, J. E. Knight's, Old Fairview Academy, Peden's Old Store, Butler's Cross Roads, Jonesville Academy, Batesville, Mission School House, Taylor's, Double Springs Church, T. J. Mitchell's, S. W. Barton's (Glassy Mt. Township), Merriittsville School House, Jennings Mill, Montague, Piedmont Factory, Gowansville, Marietta, West Dunklin New School House, Locust, Tigerville, Reed's School House; one box for Sampson and Poe Mills to be located at Sampson; one box for Brandon and Woodside Mills, to be located at or near T. A. Honour's Store, Bessie, Reese's Store, Fountain Inn, Greer, Simpsonville, Lima School House, Monaghan Mills, A. W. McDavid's Store, Berea School House, James Wilson's Store (Highland), Golden Grove School House, Hellam's Crossing and Mountain Hill.

Greenville.

1910, XXVI,
768.

Greenwood—In Greenwood County there shall be voting places as follows: Greenwood, Coronaca, Cokesbury, Hodges, Jones, Verdery, Callison, Ninety-Six, Bradleys, Troy, Phoenix, Kinards School House, Kirksey's, Paynes Cross Roads, Epworth, Algary, Dyson, Lyon and Ware Shoals.

Greenwood.

1904, XXIV,
509.

Hampton—In the County of Hampton there shall be the following voting places: Brunson, Hampton Court House, Varnville, Early Branch, Gillisonville, Tillman, Brighton, Ridgeland, Estill, Luray, Bonnett, Stafford, Scotia, Gifford,

Hampton.

1910, XXVI,
771.

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Seminole, Horse Gall, Grays, Rivers Mill, Hopewell, and Crocketville.

Horry.

1910, XXVI,
769. Horry—In Horry County there shall be voting places as follows: Adrian, Bayboro, Blanche, Cedar Grove, Conway, Cool Springs, Daisy, Dog Bluff, Dogwood, Ebenezer, Farmer, Floyd's, Gallivant's Ferry, Grahamville, Green Sea, Greenwood, Guerley, Hammond, Homewood, Joy, Knotty Branch, Little River, Loris, Marlow, Port Harrelson, Sanford, Shell, Spring Branch, Socastee, Taylorsville, Vardville, Wampee, Withers and Jordanville.

Kershaw.

1907, XXV,
506; 1908,
XXV, 1061;
1910, XXVI,
769. Kershaw—In Kershaw County there shall be voting places as follows: Camden Opera House, Rabon's Cross Roads, Blaney, Lang's Mills, Bethune, Westville, Buffalo School House, Brewer's Store, Liberty Hill, McLeon's Branch, Mt. Zion Church, Stockton Place, Hanging Rock, Kirkley's Store, Raley's Mill, Shayler's Hill, Stokes School House, Hermitage Cotton Mill, Nine Creek Cotton Mill, Cleveland School House and Cantey.

Lancaster.

1910, XXVI,
769. Lancaster—In the County of Lancaster there shall be voting places as follows: Lancaster Court House, Lancaster Cotton Mills, Antioch, Pleasant Valley, Pine Grove School House, Lindsay, Thornwell, New Cut, Tradesville, Zion, at Zion School House, Union, at Union School House, Taxahaw's, Welsh's, Carmel, Heath Springs, Flat Creek, at Flat Creek Church; Belair, Primus, Dwight, Kershaw, VanWyck, Elgin, at Elgin Station; Crenshaw, at Crenshaw School House, in Cedar Creek Township; Haile Gold Mine, White Bluff and Unity, at Unity School House.

Laurens.

1909, XXVI,
69. Laurens—In the County of Laurens there shall be voting places as follows: Laurens Court House, Laurens Cotton Mill, Renno, Langston Church, Ora, Pleasant Mound, Young's Store, Stuart's Store, Powers, Gray Court, Dial's Church, Shiloh, Woodville, Tumbling Shoals, Brewerton, at T. T. Woods, Daniel's Store, Tip Top, Mount Pleasant, Cross Hill, Mountville, Hopewell, Waterloo, Ekom, Clinton Cotton Mills, Clinton, Princeton, Watt's Mill, Cook's Store, Langford's Station, Goldville and Lydia Mills.

Lee.

1909, XXVI,
69. Lee—In the County of Lee there shall be voting places as follows: Bishopville township, one at Bishopville, and one at Manville; of Lynchburg township, one at Lynchburg; of St. Charles township, one at St. Charles; Mechanicsville

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ntship, DuBose's Cross Roads; of Spring Hill township,
at Smithville; Ionia township, one at Ionia School
use, and one at McCaskill's School House; of Turkey
reek township, one at Turkey Creek and one at Lucknow;
Stokes Bridge township, one at Stokes Bridge; of
ypress township, one at Cypress; of Mt. Clio township,
e at Wisacky.

Lexington—In the County of Lexington there shall be
ting places as follows: Lexington Court House, T. J.
raft's Store, Leesville, Gilbert, Gaston, Pool's Mill, Irmo,
allentine, Chapin, Efird's Store, Peak's Station, W. P.
healy's Store, Hilton, Samaria, Batesburg, Swansea, Red
tore, Huffman's Burnt Mill, Brookland, Spring Hill,
alk's School House, Red Bank, Brook, Lower Fork, at St.
andrew's School House; Edmund, Pelion, Crout's Store,
steadman, Delingo, Sandy Run, at Oak Grove, St.
Matthew's, T. H. Shull's Store and Summit.

Lexington.
1908, XXV.
1081.

Marion—In the County of Marion there shall be voting
places as follows: Ariel, at Back Swamp School House;
Bermuda, at Bermuda Postoffice, in Carmichael Township;
Fore's Cross Roads, at or near the residence of Tracy E.
Fore, in Kirby Township; Campbell's Bridge, Cedar Grove,
at Cedar Grove, in Wakee Township; Centerville, Dillon,
Friendship, Hamer (formerly Carmichael), at Hamer, in
Carmichael Township; Kemper, Latta, Little Rock, Marion,
Mt. Nebo, Mullins, Nichols, Old Ark, Temperance Hill,
Fork, near Fork Depot; and one at Bennett's Store, to be
called Judson, Harleysville Township; and one at Sellers,
to be called Sellers, in Kirby Township; and one, to be
known as Zion, at or near Zion Depot; and at Maple Mills,
near Dillon; and at Gin House, on S. S. Turbeville's Plan-
tation, in Mood's Township.

Marion.
1907, XXV.
506.

Marlboro—In the County of Marlboro there shall be
voting places as follows: Bennettsville, Red Hill, Browns-
ville, Hebron, Clio, McCall, Newtonville, Brightsville, at
Goodwin's Mill, Tatum, Joe Quicks Cross Roads, Kollocks.

Marlboro.
1904, XXIV.
510.

Newberry—In Newberry County there shall be the fol-
lowing voting places: One at the Court House, one at the
Newberry Cotton Mills, and one at the Mollohon Cotton
Mills, and one at each of the following places: Glymphville,
Helena, Maybinton, Whitmire, Beth Eden, Jalapa, Long-

Newberry.
1910, XXVI.
769.

A. D. 1912.

shore, Williams, Utopia, Prosperity, Hendrix Mill, Sligh, Jolly Street, Central School House, Pomaria, Walcott, Mount Bethel, Saint Philips, Little Mountain, Union Academy, Kinards and Garmany Academy.

Oconee.

1910, XXVI,
771.

Oconee—In Oconee County the voting places shall be as follows: Cherry Hill, Clemson College, Damascus, Double Springs, Earles, Fair Play, Friendship, High Falls, High Falls No. 2, Holly Springs, Jocassee, Little River, Long Creek, Madison, Newry, Oakway, Providence (near residence of W. H. Hunt), Richland, Salem, Seneca, South Union, Taber, Tamasssee, Tokeena, Tugaloo Academy, Walhalla, Westminster, West Union, Picket Post.

Orangeburg.

1910, XXVI,
770.

Orangeburg—In the County of Orangeburg there shall be voting places as follows: Ayers, Bowman, Branchville, Cedar Grove, Cope, Cordova, Dantzler's Postoffice, Ebenezer, Elloree, Eutawville, Holly Hill, Jamison, Livingston, North, Norway, Orangeburg, Phillips, Raymond, Rowesville, Sawyerdale, Springfield, Vance and Stokes, at or near the place of the late Dr. J. W. Stokes.

Pickens.

1909, XXVI,
69.

Pickens—In Pickens County there shall be voting places as follows: Easley, Central, Liberty, Pickens Court House, Dacusville (at Looper's Gin), Pumpkintown, Eastatoe, Cross Plains (at Williams' and Freeman's Store), Catachee (within five hundred yards of the company store), Peters' Creek (at Peters' Creek Academy), Mile Creek (at Mile Creek Church), Prater's (at Prater's Creek Church), Six Mile (at Six Mile Church), Calhoun, Holly Springs (at Holly Springs Church), Gap Hill, Hogsed's Store, Crosswell School House, Pleasant Grove (in Pumpkintown Township), Easley Cotton Mill, Glenwood Cotton Mill, and Rocky Bottom (at Rocky Bottom School House), Flat Rock.

Richland.

1909, XXVI,
69.

Richland—In the County of Richland there shall be voting places as follows: In the Upper Township, Slighs, Taylor's Store, Killians, Wayside, at or near Wayside School House; in Center Township, Fairmount, at or near Fairmount School House or the railroad; Davis, at or near William Thomas' residence; Horrell Hill, at Morrell's Store; Garner, Midway; in Lower Township, Eastover, Gadsden, Hopkins; in Columbia township, Olympia, on public road known as Bluff Road, at or near store of S. I.

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Riley; Waverly, at or near the fork of the Rice Creek Spring and Camden Roads; Eau Claire, Shandon; and in the city of Columbia, Ward 1, Ward 2, Ward 3, Ward 4, and Ward 5.

Saluda—In the County of Saluda there shall be voting places as follows: Saluda, Fruit Hill, at Fruit Hill Post-office; May's Cross Roads; Big Creek, at Big Creek Post-office; Ellis' Store, Perry's Cross Roads, Denny's Cross Roads, Mount Willing, Holsten's Cross Roads, Ridge Spring, Wards, Richland Church, Kinard's Store, Fairview School House, Holly's, at J. N. C. Fulmer's Store; Dupont, at Geo. W. Bowers' residence, and Rushton Store.

Saluda.

1906, XXV,
131.

Spartanburg—In the County of Spartanburg there shall be voting places as follows: Antioch, Ardella, Arrowwood, Arlington, Arkright, Roebuck, Beaumont, Bishop, Boiling Springs, Brannon, Campton, Campobello, Cannon's Camp Ground, Cashville, Cavins, Cherokee, Clifton No. 1, Clifton No. 2, Clifton No. 3, Crescent, Cowpens, Cross Anchor, Duncan, DeYoung's Store, Enoree, Fair Forest, Fairview, Fairmount, Fingerville, Grambling, Glendale, Glenn Springs, Green Pond, Golightly, Hobbey's, Hebron, Holly Springs, at Bruce's Store; Inman, Landrum, Moore, Motlow's Creek, McKelvey's, New Prospect, Pacolet, Pacolet Mills (within five hundred yards of Company's Store), Paris, Pellam, Pauline, Popea Springs, Reidville, Rich Hill, Saxon Mills, Spartan Mills, Switzer, Swain, Spartanburg No. 1, Spartanburg No. 2, Spartanburg No. 3, Spartanburg No. 4, Spartanburg No. 5, Spartanburg No. 6, Trough, Tucapau, Valley Falls, Victor Mills, Walnut Grove, Wellford, Whitney, Woodruff, Wood's Chapel, Berry's, at Berry's Postoffice, Mount Olive, Brooklyn, Inman Mills, Arcadia Mills, Drayton Mills, Dutchman, at Brown's Store, Cedar Springs, at School House, Mary Louise Mills and Cooly Springs, in Cherokee Township, at S. M. Lee's Store.

Spartanburg.

1910, XXVI,
769.

Sumter—In the County of Sumter there shall be voting places as follows: Sumter Court House No. 1 (situated in Ward 1 of the City of Sumter), Sumter Court House No. 2 (situated in Ward 2 of the City of Sumter), Sumter Court House No. 3 (situated in Ward 3 of the City of Sumter), Sumter Court House No. 4 (situated in Ward 4 of the City of Sumter), Statesburg, Providence, Rafting Creek, Oswego,

Sumter.

1906, XXV,
132.

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Mayesville, Shiloh, Concord, Privateer Station, Wedgefield and Bloomhill, in Manchester Township.

Union.

1904, XXIV,
512.

Union—In the County of Union there shall be voting places as follows: Union Court House, Cross Keys, Black-rock, Carlisle, Santuc, Adamsburg, Kelton, Jonesville, Gibbs, Coleraine, West Springs, and Lockhart Mills, to be located within five hundred yards of the factory; one at Buffalo Mills, Bogansville Township; one at Monarch Mills, Union Township, and one to be known as the “Knitting Mill,” to be located at the Excelsior Knitting Mill in the town of Union.

Williamsburg.

1908, XXV,
1062.

Williamsburg—In the County of Williamsburg there shall be voting places as follows: Trio, Earle’s, Sultan, Gourdin’s, Greelyville, Salter’s, Kingstree, Cedar Swamp, Cades, Morrisville, Vox, McAllister’s Mill, Hebron Church, Indian Town, Lake City, Muddy Creek, Scranton, Prospect Church, Poplar Hill, Taft and Bloomingdale.

York.

1909, XXVI,
70.

York—In the County of York there shall be voting places as follows: Yorkville, Hickory Grove, Piedmont, at Piedmont School House, Bethany, Forest Hill Academy, Fort Hill, Rock Hill, Coates’ Tavern, Ogden, at Ogden’s School House, in Bethesda Township, McConnellsville, Blairsville, Bullock’s Creek, at Good’s Store, Bethel, Clover, Newport, Sharon, Tirzah, Smyrna, Ebenezer, Aragon Cotton Mills.

Registration
certificates
may be chang-
ed; when.

Sec. 227. The Supervisor of Registration for the several Counties named in Section 226 are hereby authorized and required to exchange the registration of such electors as may apply for that purpose from other voting places to the voting places established by Section 226 wherever it shall appear to them that the elector so applying resides within a reasonable distance from the same.

CHAPTER X.**The Manner of Conducting Elections and Returning Votes.****ARTICLE 1. The General Election.****ARTICLE 2. Commissioners and Managers of Election.****ARTICLE 3. Formation and proceedings of the Board of County Canvassers.****ARTICLE 4. Formation and proceedings of the Board of State Canvassers.****ARTICLE I.****THE GENERAL ELECTION.****Sec.****228. When held and for what purpose.****229. Commissioners and Managers of Election; how appointed.****230. Managers may appoint clerk and organize as Board.****231. Opening and closing polls; oath to voter.****232. Peace officers to be present at polls and places for sale of liquors to be closed.****233. Voting to be by ballot; description of.****Sec.****234. Separate and distinct ballots for officers as designated.****235. Number and description of ballot boxes; arrangement of polling places; voting; how conducted, etc.****236. Managers to require evidence of payment of taxes.****237. Clerk to keep poll list.****238. Time and mode of counting votes and making returns.**

For violation of election law, see Criminal Code, § 353 to § 370.

Section 228. General elections for Federal, State and County officers in this State shall be held on the first Tuesday following the first Monday in November, one thousand eight hundred and ninety-six, and in every second year thereafter, and at such voting places as have been or may be established by law; and all general or special elections held pursuant to the Constitution of the State shall be regulated and conducted according to the rules, principles and provisions herein prescribed.

State elections; when held.

Civ. '02, § 205.

School Commissioner is a State officer, and to be elected at general election.—*Pettigrew v. Bell*, 34 S. C., 104; 12 S. E., 1023. So is the Clerk of the Court of Common Pleas.—*William v. Ostendorf*, MS. Dec., 1877; *State v. Sims*, 18 S. C., 463.

Special elections.—*Wilson v. Cox*, 73 S. C., 401; 53 S. E., 613. Court will not enjoin a special election when parties have adequate remedy by contest

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before Board of Canvassers and no property rights are involved.—Little & Barksdale, 81 S. C., 392 ; 63 S. E., 308.

Commission-
ers of Elec-
tions; how
appointed.

Civ. '02, §
206.

Managers.

Oaths to be
taken.

Sec. 229. For the purpose of carrying on such election, it shall be the duty of the Governor, and he is hereby authorized and empowered, at least thirty days prior to any such election, to appoint for each County three Commissioners of Election for Governor, Lieutenant-Governor, State officers, Circuit Solicitors, members of the General Assembly and County officers, and three other Commissioners of Election for Presidential Electors and members of Congress, or either of said officers, who shall continue in office until their successors are appointed and qualified. The Commissioners of Election for State and County officers shall appoint three Managers of Election for such officers; and the Commissioners of Election for members of Congress and Presidential Electors, or either of said officers, shall appoint three other Managers of Election for said officers for each polling place at each election precinct of the County for which they shall respectively be appointed, and none of said officers shall be removed from office except for incompetence or misconduct. The said Commissioners and Managers shall take and subscribe, before any officer authorized to administer oaths, the oath of office prescribed by Section 20 of Article II of the Constitution, and the oath with respect to dueling, and the same shall be immediately filed in the office of the Clerk of the Court of Common Pleas of the County in which said Commissioners and Managers shall be appointed, or, if there be no such Clerk, in the office of the Secretary of State.

Commissioners for State and County elections proper officers to arrange for special elections under Dispensary law.—State v. Board of Canvassers, 79 S. C., 247 ; 60 S. E., 699.

Managers
may appoint
a clerk.

Civ. '02, §
230.

How organ-
ized.

Sec. 230. The Managers may appoint a clerk to assist them in their duties, who shall take the oath of office prescribed by Section 30 of Article II of the Constitution, and the oath with regard to dueling, before the Chairman of the Board of Managers. The Commissioners and Managers at their first meetings, respectively, shall proceed to organize as a Board by appointing one of their number Chairman of the Board; and such Chairman, in each instance, is empowered to administer oaths.

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Sec. 231. The polls shall be opened, at such voting places shall be designated, at 7 o'clock in the forenoon, and close 4 o'clock in the afternoon of the day of election, except in the City of Charleston, where the closing hours shall be 6 o'clock, and shall be kept open during those hours without permission or adjournment; and the Managers shall administer to each person offering to vote an oath that he is qualified to vote at this election, according to the Constitution of this State, and that he has not voted during this election.

Polls; when opened.

Civ. '02, § 208.

Oath to be administered to voters.

Managers in receiving votes act ministerially.—*State v. Bruce*, 3 Brev., 271.
 Elections for new Counties.—*Segars v. Parrott*, 54 S. C., 33; 31 S. E., 7, 865.

Sec. 232. The Deputy State Constables and other peace officers of each County are required to be present during the whole time that the polls are open, and until the election is completed; they shall prevent all interference with the Managers, act under their direction, and see that there is no interruption of good order. If there should be more than one voting place in any County, the State Constable is empowered and directed to make such assignment of his deputies and other peace officers to such polling places as may, in his judgment, best subserve the purposes of quiet and order. All bar rooms, saloons and other places for the sale of liquors by retail shall be closed at 6 o'clock of the evening preceding the day of such election, and remain closed until 6 o'clock in the morning of the day thereafter, during which time the sale of intoxicating liquors is prohibited. And in case all of the Managers shall fail to attend at the time and place appointed for holding such poll, or shall refuse or fail to act, or in case no Manager has been appointed for such poll, it shall be lawful for the voters present at the precinct voting place on that day to appoint from among the qualified voters of such precinct the Managers to act as Managers in the place and stead of the absent Managers, and any one of the Managers so appointed shall administer the oath to the other Managers: *Provided*, That in case the legally appointed Managers attend in a reasonable time, they shall take charge of and conduct the election.

State Constables to preserve order.

Civ. '02, § 209.

Places for sale of liquors to be closed.

Sec. 233. The voting shall be by ballot, which ballot shall be of plain white paper two and a half inches wide by five inches long, clear and even cut, without ornament, designa-

Description of ballot.

Civ. '02, § 210.

A. D. 1912.

tion, mutilation, symbol or mark of any kind whatsoever except the name or names of the person or persons voted for and the office to which such person or persons are intended to be chosen, which name or names, office or officers, shall be written or printed, or partly written or partly printed thereon in black ink; and such ballot shall be so folded as to conceal the name or names thereon, and, so folded, shall be deposited in a box to be constructed, kept, and disposed of as hereafter provided; and no ballot of any other description found in any election box shall be counted.

Directions as to form of ballot are mandatory.—*Ex Parte Riggs*, 52 S. C. 298; 29 S. E., 645.

Secrecy of the ballot is essential.—*State v. Board of Canvassers*, 78 S. C. 461; 59 S. E., 145; 14 L. R. A., (N. S.), 850.

Officers to be
voted for.

Civ. '02, §
211.

Sec. 234. There shall be separate and distinct ballots for the following officers, to wit: 1. Governor and Lieutenant-Governor. 2. Other State officers. 3. Circuit Solicitor. 4. State Senator. 5. Members of the House of Representatives. 6. County officers. 7. Representatives in Congress. 8. Presidential electors; on which shall be the name or names of the person or persons voted for as such officers, respectively, and the office for which they are voted. Whenever a vote is to be taken on any special question or questions a box shall be provided, properly labeled for that purpose, and the ballots therefor on such question or questions shall be deposited therein.

Boxes to be
provided.

Civ. '02, §
212.

Sec. 235. The Commissioners of Election shall provide for each voting place a sufficient number of boxes to meet the requirements of the foregoing Section. In any case in which a voting precinct may form part of more than one Congressional District, if no other provision be made by law, the Commissioners of Election for the County in which such precinct is situated shall provide therefor separate boxes for every Congressional District within which the said precinct may be, and each voter at such precinct shall deposit his ballot for members of Congress in the box provided for the Congressional District within the limits of which he may reside. An opening shall be made in the lid of each box not larger than sufficient for a single ballot to be inserted therein at one time, through which each ballot received proper to be placed in such box shall be inserted by

Description.

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no person voting, and by no other. Each box shall be provided with a sufficient lock, and shall be publicly opened and inspected, to show that it is empty and secure, and locked just before the opening of the poll. The keys shall be returned to the Managers, and the box shall not be opened during the election. Each box shall be labeled in plain and distinct Roman letters, with the office or officers voted for, and the Managers, on the demand of the voter, shall be required to read to him the names on the boxes. At each precinct a space or enclosure, such as the Managers of Election shall deem fit and sufficient, shall be railed off or otherwise provided with an opening at one end or side for the entrance of the voter, and an opening at the other for his exit, as a voting place in which to hold the election for the State, Circuit, County and Federal offices. And the ballot box shall be so located as to be in view of persons outside of the polling place during the time of voting. A similar, but separate and distinct space or enclosure shall be railed off or otherwise provided, as a voting place for the election of Congressmen and Presidential Electors, at such distance from the polling place for State officers as the Commissioners of Election for each County shall determine and appoint for each election precinct. But one voter shall be allowed to enter any voting place at a time, and no one except the Managers shall be allowed to speak to the voter while in the voting place casting his vote.

To be labeled.

Polls; how to be arranged.

Separate space for Federal elections.

Sec. 236. The Managers of Election shall require of any elector offering to vote at any election, before allowing him to vote, in addition to the production of a registration certificate, proof of the payment of all taxes, including poll tax, assessed against him and collectible during the previous year. The production of a certificate or of the receipt of the officer authorized to collect such taxes shall be conclusive proof of the payment thereof.

Managers to require evidence of payment of taxes.

Civ. '02, § 213.

Sec. 237. Each clerk of the poll shall keep a poll list, which shall contain one column headed "Names of Voters," and the name of each elector voting shall be entered by the clerk in such column.

Duties of clerk.

Civ. '02, § 214.

Sec. 238. At the close of the election the Managers and clerk shall immediately proceed publicly to open the ballot box and count the ballots therein, and continue such count,

Ballots; how to be counted.

Civ. '02, § 215.

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Returns to
be made to
Commission-
ers of Elec-
tion.

without adjournment or interruption, until the same is completed, and make such statement of the result thereof, and sign the same as the nature of the election shall require. No ballot shall be counted upon which there shall appear the name of an office or the name of a person in connection with an office other than that for which the box in which such ballot is found shall be designated and labeled. If, in counting, two or more like ballots shall be found folded together compactly, only one shall be counted; the other must be destroyed; but if they bear different names, all must be destroyed and none counted. If more ballots shall be found on opening the box than there are names on the poll list, all the ballots shall be returned to the box and thoroughly mixed together, and one of the Managers, or the clerk, shall, without seeing the ballots, draw therefrom and immediately destroy as many ballots as there are in excess of the number of names on the poll list. Within three days thereafter the Chairman of the Board of Managers, or one of them, to be designated in writing by the Board, shall deliver to the Commissioners of Election the poll list, the boxes containing the ballots and a written statement of the result of the election in his precinct.

ARTICLE III.

FORMATION AND PROCEEDINGS OF THE BOARD OF COUNTY CANVASSERS.

SEC.

- 239. Commissioners to meet at County seat and organize as Board of County Canvassers.
- 240. Canvass of votes; protests; statements and returns.
- 241. Duplicate statements to be filed in Clerk's office.

SEC.

- 242. Separate statements of votes cast for each candidate.
- 243. Three other separate statements to be prepared.
- 244. Returns; when, to whom and how to be forwarded.
- 245. Pay of election officers; other expenses of elections.

Elections for new Counties are governed by this article.—State ex rel. Martin v. Moore, 54 S. C., 556; 32 S. E., 700. An election will not be set aside because of illegal votes cast which do not affect the result or even render it doubtful.—State ex rel. Burchmore v. Board of Canvassers, 78 S. C., 461; 59 S. E., 145; 14 L. R. A. (N. S.), 850; State ex rel. Welch v. Board of Canvassers, 79 S. C., 248; 60 S. E., 699; State ex rel. Parler v. Board of Canvassers, 79 S. C., 414; 60 S. E., 967.

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Section 239. The Commissioners of Election for Governor, lieutenant-Governor, State officers, Circuit Solicitor, members of the General Assembly, and County officers, or either of said officers, shall meet in some convenient place at the County seat on the Tuesday next following the election, before 1 o'clock in the afternoon of that day, and shall proceed to organize as, and shall be, the County Board of Canvassers. They may appoint some competent person as Secretary. The Chairman shall then proceed to administer the constitutional oath to each member of the Board, as Canvassers; and shall administer the constitutional oath to the Secretary, and the Secretary shall administer to the Chairman the same oath that he shall have administered to the other members of the Board. The Commissioners of Election for members of Congress and Presidential Electors, or either of said officers, shall likewise meet at the same time at its County seat, and shall in like manner proceed to organize as and shall be the County Board of Canvassers for the election of the Federal officers aforesaid.

Commissioners to meet at County seat on Tuesday following election; appoint Secretary. All to qualify.

Civ. '02, § 216.

Segars v. Parrott, 54 S. C., 1; 31 S. E., 677.

Sec. 240. The said Board of County Canvassers, respectively, shall then proceed to canvass the votes of the County. When townships, or parts of townships of any County may not be in the same Congressional District, the proper Board of County Canvassers of such County, in canvassing the votes for Representative in Congress, shall report separately the result of the votes of such township, or parts of townships, for the Congressional District to which they respectively belong. The said Boards, respectively, shall have the power, and it is hereby made their duty as judicial officers to decide all cases under protest or contest that may arise, subject to appeal to the Board of State Canvassers. They shall make such statements of the votes of the County as the nature of the election shall require, within ten days from their first meeting as a Board of County Canvassers, and shall transmit to the Board of State Canvassers any protest and all papers relating to the election.

Canvass of votes; protests; statements and returns.

Civ. '02, § 217.

Segars v. Parrott, 54 S. C., 1; 31 S. E., 677.

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Duty of County Canvassers.—State v. Chairman County Canvassers, 4 S. 485.

Majority, a quorum sufficient.—State v. DeLeisselne, 1 McC., 52.

But single member cannot act as Board.—State v. Nerland, 7 S. C., 241.

Board may receive secondary evidence of ballots and returns lost destroyed.—Ib.

They act judicially, and decision conclusive until reversed.—State v. Brown, 8 Brev., 264; State v. DeLeisselne, supra; State v. Cockrell, 2 Rich., 6; State v. Walker, 5 S. C., 265.

An appeal lies from the County Board of Canvassers to State Board.—State ex rel. Martin v. Moore, 54 S. C., 556; 32 S. E., 700.

Duplicate statements to be made and filed with Clerk of County.

Civ. '02, § 218.

Separate statements of votes given for each person voted for.

Civ. '02, § 219.

Three separate statements, besides those for County Clerk and Secretary of State, prepared.

Civ. '02, § 220.

Returns to be forwarded to Governor and Secretary of State by Managers.

1905, XXIV, 960.

Pay of election officers; other expenses of elections.

Civ. '02, § 222.

Sec. 241. Duplicate statements shall be made and filed in the office of the Clerk of the County; and, if there be no such Clerk, duly qualified according to law, then in the office of the Secretary of State.

Sec. 242. They shall make separate statements of the whole number of votes given in such County for Representatives in Congress; and separate statements of all other votes given for other officers. Such statements shall contain the names of the persons for whom such votes were given, and the number of votes given for each, which shall be written out in words at full length.

Sec. 243. There shall be prepared by the Commissioners three separate lists of each statement, besides the lists to be filed in the office of the County Clerk, or Secretary of State, and each list shall be certified to as correct by the signatures of the Commissioners, subscribed to such certificate.

Sec. 244. After the final adjournment of the Board of County Canvassers, and within the time prescribed in this Chapter, the Chairman of said Board shall forward, addressed to the Governor and Secretary of State, one copy by mail and one copy by express, the returns, poll list and all papers appertaining to the election.

Sec. 245. Each Commissioner and Manager of Election shall receive for his compensation one dollar per day for his services while actually employed, and five cents per mile for necessary travel; each Clerk of the Commissioners, and of the Managers, respectively, shall receive one dollar per day while actually employed; but no Commissioner, Manager or Clerk shall receive pay for more than three days.

The messengers designated by any of the Boards of Commissioners, under existing laws, to carry the ballots and reports of the Commissioners of Election from the several Counties to the city of Columbia, or elsewhere, according to

7, shall each receive five dollars and mileage at the rate five cents for every mile traveled on the most direct route. Notices of election published in any public gazette or county newspaper by authority of the proper Board of Election Commissioners, as required by law, shall be paid for at the rates prescribed by law for legal notices.

To defray the expenses designated herein, the Comptroller-General shall draw his warrant on the State Treasurer in favor of such Commissioners of Election, Manager of Election, Clerk of Commissioners or Managers, messenger and proprietor or printer of said gazette, for the amount of compensation to which he may be entitled; the same to be paid by the Treasurer out of any balance that may be in the treasury.

The County Commissioners of the several Counties shall audit and pay all accounts for necessary expenses incurred by the Commissioners and Managers of Election for stationery, the making of election boxes, rents and similar expenses on elections held in this State.

ARTICLE IV.

FORMATION AND PROCEEDINGS OF THE BOARD OF STATE CANVASSERS.

Sec.	Sec.
246. Meeting of State Canvassers.	253. How election of Governor may be contested.
247. Who constitute the Board; quorum.	254. Secretary of State to record result of canvass.
248. When no quorum President of Senate attends and acts.	255. To furnish copy of each determination to person declared elected and to Governor.
249. Board to make statement of votes cast for each candidate and certify same.	256. To print statements in public newspapers.
250. Certificate of determination delivered to Secretary of State.	257. To send certificate of election of Member of Congress to House of Representatives.
251. Board declares what persons elected, and decides contested cases on appeal.	258. To keep record of County officers elected.
252. May adjourn from day to day for fifteen days.	

Section 246. The Secretary of State shall appoint a meeting of the Board of State Canvassers, to be held at his office, or some convenient place, within ten days next after such general election, for the purpose of canvassing the votes for all offices voted for at such election.

Meeting of
State Can-
vassers.

Civ. '02, §
223.

A. D. 1912.

Who constitute the Board; quorum.

Civ. '02, § 224.

When no quorum, President of Senate attends and acts.

Civ. '02, § 225.

Board to make statement of votes cast for each candidate and certify same.

Civ. '02, § 226.

Certificate of determination delivered to Secretary of State.

Civ. '02, § 227.

Board declares what persons elected, and decides contested cases on appeal.

Civ. '02, § 228.

Sec. 247. The Secretary of State, Comptroller-General, Attorney-General, State Treasurer, Adjutant and Inspector General and the Chairman of the Committee on Privileges and Elections of the House of Representatives, shall constitute the Board of State Canvassers—four of whom shall be a quorum.

Sec. 248. If a majority of these officers shall be unable or shall fail to attend, the President of the Senate, on being notified by the Secretary of State, shall attend, without delay, and with the officers attending shall form a Board.

Sec. 249. The Board when thus formed shall, upon the certified copies of the statements made by the Boards of County Canvassers, proceed to make a statement of the whole number of votes given at such election for the various officers, and for each of them voted for, distinguishing the several Counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper names.

Sec. 250. They shall make and subscribe, on the proper statement, a certificate of their determination, and shall deliver the same to the Secretary of State.

Referred to.—State v. Nerland, 7 S. C., 241.

Such certificate void when based upon copies of statements of County Board of Canvassers, certified by one of the Board.—State v. Nerland, 7 S. C., 241.

Sec. 251. Upon such statements they shall then proceed to determine and declare what persons have been, by the greatest number of votes, duly elected to such offices, or either of them. They shall have power, and it is made their duty as judicial officers, to decide all cases under protest or contest that may come before them on appeal from the decisions of the County Board of Canvassers.

Board not an inferior Court; a special tribunal to decide elections.—Whipper v. Talbird, 32 S. C., 1; 10 S. E., 578. No appeal from.—Ex Parte Mackey, 15 S. C., 322; Ex Parte Whipper, 32 S. C., 5; 10 S. E., 579; Pettigrew v. Bell, 34 S. C., 104; State ex rel. Welch v. Board of Canvassers, 79 S. C., 248. 60 S. E., 699. Duties of.—State v. Hayne, 8 S. C., 367; Ex Parte Mackey, 15 S. C., 335; Ex Parte Elliott, 33 S. C., 602; 12 S. E., 423. Title to office does not depend upon their decision when not contested.—Ex Parte Smith, 18 S. C., 516. When they decline to act or are equally divided on appeal, decision of County Board stands.—State v. Walker, 5 S. C., 263; Ex Parte Elliott, supra. But in election of Senator their determination is subject to final decision of Senate.—Ex Parte Scarborough, 34 S. C., 13; 12 S. E., 668. Minute irregularity does not invalidate election.—State v. Harman, Cher., 267; Wright v. Board of Canvassers, 76 S. C., 574; 57 S. E., 536; State ex rel. Burchmore v. Board of Canvassers, 78 S. C., 461; 59 S. E., 145. Power

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Courts in elections.—*State v. Alderman*, 1 S. C., 30; *Alexander v. McKen-*
2 S. C., 81; *Ex Parte Carson*, 5 S. C., 117. Will not grant mandamus
 alter decision.—*State v. Bruce*, 3 Brev., 264; *Grier v. Shackelford*, 3
 Brev., 491; *State v. Sims*, 18 S. C., 461; *Ex Parte Scarborough*, 34 S. C.,
 12 S. E., 666. But will enforce ministerial duty of mandamus where no
 real hes.—*Ex Parte Mackey*, 15 S. C., 335. Mandamus to compel member
 Board to act.—*State v. Jones*, 83 S. C., 432; 65 S. E., 444. The action
 the State Board of Canvassers can only be reviewed by the Courts under
 certiorari.—*Ex Parte Riggs*, 52 S. C., 298; 29 S. E., 645; *Segars v. Parrott*,
 S. C., 29; 31 S. E., 683. The action of the County Board of Canvassers
 may be reviewed on appeal to the State Board, and the Court will not issue
 writ of certiorari to review their action.—*State ex rel. Martin v. Moore*,
 S. C., 556; 32 S. E., 700.

Sec. 252. The Board shall have power to adjourn from day to day for a term not exceeding fifteen days. May adjourn from day to day for fifteen days.

Sec. 253. In case of a contest of the election of Governor, if the General Assembly, by Concurrent Resolution, shall entertain the same, the Senate and House of Representatives shall, each separately, proceed to hear and determine the facts in the case, so far as they deem necessary, and decide thereon who is entitled to be declared elected. If the two branches of the General Assembly come to the same decision, they shall, by Concurrent Resolution, declare who is duly elected and entitled to enter upon and exercise the office of Governor; and such person thereupon shall, upon taking the oaths prescribed in the Constitution and the oath with respect to dueling, be inducted into office. If the two branches of the General Assembly do not come to the same decision, then an election shall be called by the Governor, to take place in not less than sixty nor more than ninety days, at which the qualified electors shall proceed to vote for a suitable person to fill the office of Governor. Civ. '02, § 229.
How election of Governor may be contested.
Const. Art. 4, § 4; Civ. '02, § 230.

Sec. 254. The Secretary of State shall record in his office, in a book to be kept by him for that purpose, each certified statement and determination which shall be delivered to him by the Board of State Canvassers, and every dissent or protest that shall have been delivered to him by a canvasser. Secretary of State to record result of canvass.
Civ. '02, § 231.

Sec. 255. He shall, without delay, transmit a copy, under the seal of his office, of such certified determination to each person thereby declared to be elected, and a like copy to the Governor. To furnish copy of each determination to person declared elected and to Governor.

This certificate not the only evidence of election to House of Representatives. If refused, right to seat may be shown otherwise.—*State v. Hayne*, 8 S. C., 367. Civ. '02, § 232.

A. D. 1912.

To print
statements in
public news-
papers.

Civ. '02, §
233.

To send cer-
tificate of
election of
member of
Congress to
House of Rep-
resentatives.

Civ. '02, §
234.

To keep rec-
ord of County
officers elect-
ed.

Civ. '02, §
235.

Sec. 256. He shall cause a copy of such certified state-
ments and determinations to be printed in one or more pub-
lic newspapers of this State.

Sec. 257. He shall prepare a general certificate, under the
seal of the State, and attested by him as Secretary thereof.

addressed to the House of Representatives of the United
States in that Congress for which any person shall have
been chosen, of the due election of such person as Represen-
tative of this State in Congress, and shall transmit the same

to the said House of Representatives at their first meeting.

Sec. 258. The Secretary of State shall enter in a book to
be kept in his office the names of the respective County
officers elected in this State, specifying the Counties for

which they were severally elected, and their place of resi-
dence, the office for which they were respectively elected.
and their term of office.

CHAPTER XI.

The Election of Representatives in Congress and Electors of President and Vice-President.

ARTICLE 1. Election of Representatives in Congress.

ARTICLE 2. Election of Electors of President and Vice-President, and formation and proceedings of the Electoral College.

ARTICLE I.

. ELECTION OF REPRESENTATIVES IN CONGRESS.

Sec.	Sec.
259. Representatives; how and when chosen.	261. Each District elects one member.
260. Division of State into Congressional Districts.	262. Congressmen at large.

Section 259. Representatives in the House of Representatives of the Congress of the United States shall be chosen at each general election in the several Congressional Districts by the qualified voters thereof.

Sec. 260. The State is divided into seven Congressional Districts as follows:

The First Congressional District shall be composed of the Counties of Charleston, Berkeley, Colleton, Dorchester and Clarendon.

The Second Congressional District shall be composed of the Counties of Aiken, Bamberg, Barnwell, Beaufort, Edgefield, Saluda and Hampton.

The Third Congressional District shall be composed of the Counties of Pickens, Oconee, Anderson, Abbeville, Greenwood and Newberry.

The Fourth Congressional District shall be composed of the Counties of Laurens, Spartanburg, Greenville and Union.

The Fifth Congressional District shall be composed of the Counties of Cherokee, Chester, York, Fairfield, Kershaw, Chesterfield and Lancaster.

Representatives; how and when chosen.

Civ. '02, § 236.

Congressional Districts.

1902, XXIII, 977, 1197; 1908, XXV, 1283; 1910, XXVI, 867.

A. D. 1912.

The Sixth Congressional District shall be composed of the Counties of Marlboro, Marion, Horry, Darlington, Florence, Williamsburg, Georgetown and Dillon.

The Seventh Congressional District shall be composed of the Counties of Richland, Sumter, Orangeburg, Lexington, Lee and Calhoun.

See Section 235 ante, for provisions as to separate Congressional boxes at border precincts, and Section 240, separate reports by County Canvassers.

Each District to elect one member of Congress.

Civ. '02, § 238.

Sec. 261. Until the next apportionment be made by the Congress of the United States, each of the said Congressional Districts shall be entitled to elect one member to represent this State in the Congress of the United States. After such new apportionment by Congress, the General Assembly shall divide the State into as many Congressional Districts as the State is entitled to members in the House of Representatives.

Sec. 262. In case the Congress of the United States shall by any new apportionment give to this State more than seven members of the House of Representatives, and the General Assembly shall not be in session, the Governor shall, by proclamation, issue writs of election for Congressmen at Large, one or more, as the case may be.

ARTICLE II.

ELECTION OF ELECTORS OF PRESIDENT AND VICE-PRESIDENT, AND FORMATION AND PROCEEDINGS OF THE ELECTORAL COLLEGE.

SEC.

- 263. Electors of President and Vice-President; how chosen.
- 264. Certified copies of statement of votes to be made, etc.
- 265. Statement to be delivered by messengers to Secretary of State.
- 266. Meeting of Board of State Canvassers.
- 267. Statement and determination of Board.
- 268. Certificates by Secretary of State; messenger.
- 269. Determination and certificate of Board to be published.

SEC.

- 270. Meeting of the Electors; preliminary organization.
- 271. Duties of Secretary of State.
- 272. Permanent organization; vote by ballot, etc.
- 273. Certified lists of candidates voted for, and the vote for each, to be made.
- 274. To appoint messengers to deliver lists; when and to whom.
- 275. Other duplicate lists; to whom forwarded and delivered.
- 276. Compensation of Electors.

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Section 263. When an election for President and Vice-president of the United States occurs there shall be elected, ^{Electors of President and Vice-President; how chosen.} on a general ticket, as many Electors of President and Vice-president as this State shall be entitled to appoint; and ^{Civ. '02, § 239.} each elector in this State shall have a right to vote for the whole number of such Electors; and the several persons, to the number required to be chosen, having the highest number of votes shall be declared and deemed duly appointed Electors.

Electors derive authority from Constitution and laws of United States; their title cannot be determined by quo warranto in name of State.—State v. Lowen, 8 S. C., 400.

Sec. 264. The Commissioners of Election of each County shall make four certified copies of the statement of votes ^{Certified copies of statement of votes to be made, etc.} given for Electors in their County: one of which copies shall be filed in the office of the Clerk of the County, if ^{Civ. '02, § 240.} there be such Clerk duly qualified by law; another of such copies they shall forthwith transmit to the Governor; another to the Secretary of State; and deliver the other as hereinafter directed.

Sec. 265. After the final adjournment of the Commissioners of Election of each County, and within the time prescribed in this Chapter, the Chairman of said Board shall forward, addressed to the Governor and Secretary of State, ^{How returns shall be forwarded.} one copy by mail and one copy by express, the returns, poll lists and all papers appertaining to the election. ^{1910, XXVI, 680.}

Sec. 266. The Board of State Canvassers shall meet at the office of the Secretary of State within ten days next ^{Meeting of Board of State Canvassers.} after such election, to canvass the votes given for the Electors of President and Vice-President; and in case all the ^{Civ. '02, § 242.} certified statements shall not have been received on that day, the Board may adjourn from day to day until the same shall have been received, not exceeding five days; and if at the expiration of four days certified copies of the statements of the County Canvassers shall not have been received from any County, the Board shall proceed to canvass upon such of the said statements as shall have been received.

Sec. 267. The Board shall proceed, in making a state- ^{Statement and determination of Board.} ment of all the votes, and determining and certifying the persons elected, in the manner prescribed by law in relation ^{Civ. '02, § 243.} to the election of other officers.

A. D. 1912.

Certificates
by Secretary
of State. Mes-
senger.

Civ. '02, §
244.

Sec. 268. The Secretary of State shall, without delay, cause a copy, under the seal of his office, of the certified determination of the Board to be delivered to each of the persons therein declared to be elected; and for that purpose he may employ such and so many messengers as he shall deem necessary. The messengers so employed shall receive for their compensation twelve cents per mile for traveling, to be audited by the Comptroller-General upon the certificate of the Secretary of State.

Determina-
tion and cer-
tificate of
Board to be
published.

Civ. '02, §
245.

Sec. 269. The determination and certificate of the Board in relation to the choice of the Electors shall be published in the same manner as provided in relation to the certificates of the election of other officers.

Meeting of
the Electors.
Preliminary
organization.

Civ. '02, §
246.

Sec. 270. The Electors of President and Vice-President shall convene at the capital, in some convenient place, on the second Monday in January next after their election; and those of them who shall be assembled at 11 o'clock in the forenoon of that day shall, immediately after that hour, proceed to a preliminary organization and make such preliminary arrangements as may be necessary for permanent organization and the casting of the electoral vote of the State.

Duties of
Secretary of
State.

Civ. '02, §
247.

Sec. 271. The Secretary of State shall prepare three lists of the names of the Electors, procure to the same the signature of the Governor, affix thereto the seal of the State, and deliver them, thus signed and sealed, to the President of the College of Electors on the said second Monday in January.

Permanent
organization:
vote by bal-
lot, etc.

Civ. '02, §
248.

Sec. 272. On the said second Monday in January, at 12 o'clock M., the Electors shall meet at some convenient place at the capital and effect a permanent organization by the election of a President and Secretary from their own body, proceed to fill by ballot and by plurality of votes all vacancies in the Electoral College occasioned by the death, refusal to serve, or neglect to attend at that hour, of any Elector, or occasioned by an equal number of votes having been given for two or more candidates for Presidential Electors, and then and there vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves. They shall name in their ballots the persons voted for as President, and, in distinct ballots, the persons voted for as Vice-President.

A. D. 1812.

Sec. 273. They shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify; and, after annexing thereto one of the lists received from the Secretary of State, they shall seal up the same, certifying thereon that lists of the votes of this State for President and Vice-President are contained herein.

Certified lists of candidates voted for and the vote for each to be made.

Civ. '02, § 249.

Sec. 274. The Electors shall then, by writing, under their hands, or under the hands of a majority of them, appoint a person to take charge of the lists so sealed up, who shall deliver the same to the President of the Senate of the Congress of the United States, at the seat of government, before the second Wednesday in February then next ensuing.

To appoint messenger to deliver lists; when and to whom.

Civ. '02, § 250.

In case there shall be no President of the Senate at the seat of government on the arrival of the person entrusted with the lists of the votes of the Electors, then such person is required to deliver the lists of the votes in his custody into the office of the Secretary of State of the United States.

Sec. 275. The Electors are also required to forward forthwith, by the postoffice, to the President of the Senate of the United States, at the seat of government, and to deliver forthwith to the Judge of the United States for the District of South Carolina, and to the Secretary of State, to be filed in his office, similar lists signed, annexed, sealed up, and certified in the manner aforesaid.

Other duplicate lists; to whom forwarded and delivered.

Civ. '02, § 252.

Sec. 276. Every Elector of this State for the election of a President and Vice-President of the United States who shall attend at any election of those officers, and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election and for traveling to and from his place of residence by the most usual route, the same sum as shall at the time be allowed by law to members of the General Assembly for their attendance and travel, to be paid in like manner.

Compensation of Electors.

G. S. 159; R. S. 210; 1882, XVII, 1125, § 73.

A. D. 1912.

CHAPTER XII.

Election of County Officers.

SEC.

277. General election for County officers; when held.

SEC.

278. Vacancies in County offices: how filled.

General election for County officers; when held.

Civ. '02, § 253.

Section 277. There shall be a general election for the following County officers, to wit: County Supervisors and County Superintendents of Education held in each County at every general election for members of the House of Representatives, except in those Counties in which the term of office of the County Superintendent of Education and County Supervisor is four years; and for the election of Sheriff, Coroner and Clerk of the Court of Common Pleas at every alternate general election, reckoning from the year one thousand eight hundred and eighty-eight, except as to the Counties of Berkeley and Cherokee, and except for Sheriff and Coroner in Hampton County.

The Probate Judge in every County, and the Clerk of Court in Berkeley and Cherokee Counties, and the Sheriff and Coroner in Berkeley, Cherokee and Hampton Counties, shall be elected at every alternate general election, reckoning from the year one thousand eight hundred and ninety.

Clerk is a State officer within meaning of Constitution, Art. XIV, Sec. 10; and his term is limited to next general election.—Williams v. Ostendorf, MS. Dec., 1877; State v. Sims, 18 S. C., 463.

So is School Commissioner (now County Superintendent of Education), and his term is so limited.—Pettigrew v. Bell, 34 S. C., 104; 12 S. E., 1023.

Vacancy in County offices; how filled.

Civ. '02, § 254.

Sec. 278. In the event of a vacancy at any time in any of the offices of any County of the State, whether from death, resignation, disqualification, refusal or neglect to qualify of the person elected or appointed thereto, expiration of the term of office, removal from the County or from any other cause, the Governor shall have full power to appoint some suitable person, who shall be an elector of the County, and, upon duly qualifying according to law, shall be entitled to enter upon and hold the office to which he has been appointed if it be an elective office, until the next general election, when an election shall be held to fill the unexpired term,

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and the officer so appointed or elected shall hold said office for the term of said election or appointment, and until his successor shall qualify; and if it be an office which was filled originally by appointment, until the adjournment of the General Assembly at the regular session next after such appointment; and shall be subject to all the duties and liabilities incident to said office during the term of his service herein.

Legislature may provide to fill vacancy in Clerk's office by election.—Reister v. Hemphill, 2 S. C., 325.

The Governor cannot so fill a vacancy in the office of Judge of Probate, where the unexpired term exceeds one year.—Whitmire v. Langston, 11 S. C., 81.

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CHAPTER XIII.

Primary Elections.

Sec.

279. Primary Elections; how conducted, appointment of managers, oaths.

280. Duties of Managers.

Sec.

281. Returns; how made and when filed.

282. Candidates may appoint watchers in certain Counties.

Certiorari to review action of Executive Committee in municipal elections.—*Holt v. Executive Committee*, 79 S. C., 263; 60 S. E., 659.

Certiorari to review action of County Executive Committee.—*Moore v. Griffin*, 81 S. C., 393; 62 S. E., 545.

For violation of primary laws, see Criminal Code, §§ 353 to 360 and § 365.

Regulation
of primary
elections.

1905, XXIV,
831.

Oath of man-
agers.

Oaths to be
filed.

Duty of
managers.

Id.

Section 279. Every political primary election held by any political party, organization, or association, for the purpose of choosing candidates for office, or the election of delegates to conventions, shall be presided over and conducted in the manner prescribed by the Constitution and Rules of the political party, organization or association holding such primary election by managers selected in the manner prescribed by such Constitution and Rules. Such managers shall, before entering upon the discharge of their duties, each take and subscribe an oath that he will fairly, impartially and honestly conduct the same according to the provisions of this Article and the Constitution and Rules of such party, organization or association. Should one or more of the managers appointed to hold such election fail to appear on the day of election, the remaining manager or managers shall appoint others in their stead and administer to them the oath herein prescribed. The managers shall take the oath herein prescribed before a notary public or other officer authorized to administer oaths; but if no such officer can be conveniently had, the managers may administer the oath to each other. Such oaths shall, after being subscribed by the managers, be filed in the office of Clerk of Court for the County in which such election shall be held, within five days after such election.

Filing statement of expenses.—*Moore v. Griffin*, 81 S. C., 293; 62 S. E., 545.

Sec. 280. Before any ballots are received at such election, and immediately before opening the polls, such managers

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all open each ballot box to be used in such election, and exhibit the same publicly, to show that there are no ballots in such box. They shall then close and lock or seal up such box, except the opening to receive the ballots, and shall not again open the same until the close of the election. They shall keep a poll list, with the name of each voter voting in such elections, and shall before receiving any ballot administer to the voter an oath that he is duly qualified to vote, according to the Constitution and Rules of the party, and that he has not voted before in such election; and at the close of the election they shall proceed, publicly, to count the votes and declare the result; they shall certify the result of such election, and transmit such certificate, with the poll list, ballots, and all other papers relating to such election, within the time prescribed and to the person or persons designated by the Constitution and Rules of the party, organization or association holding such election.

Poll list.

Oath of voters.

Declaring the result.

Sec. 281. Every such primary election shall be held at the time and place, and under the regulations prescribed by the Constitution and Rules of the party, organization or association holding the same, and the returns shall be made and the result declared as prescribed by such Constitution and Rules, but the returns of the manager, with the poll lists, shall be filed in the office of the Clerk of Court for the County in which such election is held, within four days after the final declaration of the result thereof, and shall remain there for public inspection.

How held.

Id.

Returns of managers.

The decisions of the State Executive Committee of the Democratic party as to the validity of a primary election are quasi judicial, and reviewable by the Courts under the writ of *certiorari*.—Ex Parte Sanders, 53 S. C., 478; 31 S. E., 290. The rules of the Democratic party as to primary elections are considered in same case.

Sec. 282. Candidates in all Counties in which there is a city containing twenty thousand inhabitants or more shall have the right to appoint a watcher at each polling place to look after the interest of such candidates. And in all cities of twenty thousand inhabitants or more there shall be a party registration of voters under regulations to be prescribed by the rules of the respective party: *Provided*, That in Counties containing a city of forty thousand inhabitants or more the following provisions shall obtain from all primaries, State, County and municipal: each voter in any

Candidates in certain cities shall have the right to appoint watchers.

1903, XXIV, 9; 1908, XXV, 1154.

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How voters
may register.Lists to be
filed with
County Audi-
tor.Auditor
to furnish
copies.

primary election must be of the age prescribed by the rules of the party, and must have been a resident of the State one year and in the County in which he offers to vote at least sixty days next preceding such primary; and he must have been duly registered in the party registration of voters under the regulations prescribed by the rules of the party at least sixty days before the holding of such primary election, on a club roll which shall have been duly filed as hereinafter provided for. No person shall be registered upon a club list or club roll except upon his written application signed by himself and witnessed by at least one witness who shall subscribe his name as such and residence, the said applicant setting out his residence by street, number and ward (where these designations exist), and the said applications shall be carefully preserved as vouchers for the correctness of the entries until filed in the office of the County Auditor, as hereinafter provided. It shall be the duty of the President and Secretary, and of either or both of them of every party club or similar organization in such County as aforesaid, to file in the office of the County Auditor of the County, sixty days before the date of every primary election in such party, the Club List or Club Roll of registered members of such club or other similar organization arranged alphabetically and numbered consecutively, certified under the hands of said officers, giving place of residence, indicating street and number of the street in city or other localities where street numbering is generally employed, and such certified Lists or Rolls shall remain in said office under the care and custody of the County Auditor subject at all times during the usual hours when the said office may be open to public inspection, examination and copying by interested parties, subject only to such restrictions as may be necessary to the preservation and safeguarding of the same; and it shall be the duty of the County Auditor, on demand, upon payment of his fees in advance not exceeding the sum of one (1) cent for every name, with its appropriate date, to furnish within the space of five (5) days after such demand a copy or copies of any one or more of said certified Lists or Rolls; and the said original certified Lists or Rolls so filed as aforesaid, shall remain until called for and receipted for by the proper representative of

County or Municipal Executive Committee, who shall withdraw the same not sooner than the day before the said primary, as to Lists or Rolls of city clubs, or three (3) days more as to other clubs. The Club Rolls which have been filed shall constitute the registration lists at the respective precincts in all primary elections. No name shall be added to said Lists or Rolls after they have been so filed with the Auditor, nor shall further registration or registration certificate be required as a prerequisite to voting at any primary. At the same time and place the said President and Secretary, either or both of them, shall file, together with the said Club Lists or Rolls, the written applications for membership hereinbefore mentioned; and these applications shall be preserved as permanent records in the said Auditor's office for a space of one year after filing of same, subject to the same provisions for examination by interested parties as apply to the Club Rolls. The said Club Lists or Club Rolls shall be published by the Chairman of the Executive Committee of the respective party, at least thirty (30) days before the date set for the primary in a daily newspaper published in the County where such election is to be held, and such publication shall be at the expense of the Executive Committee, County or municipal. No person shall be qualified to vote at said primary unless his name appear on the said Club Lists or Club Rolls so filed as aforesaid, and then only at the polling place appropriate under the rules of the party to said registered residence.

Failure of
officer to per-
form his duty
a misde-
meanor.

TITLE III.
OF THE ASSESSMENT AND COLLECTION OF
TAXES.

CHAPTER XIV. *The Assessment of Taxes.*

CHAPTER XV. *The Collection of Taxes.*

CHAPTER XIV.

The Assessment of Taxes.

- ARTICLE 1.** Subjects and lien of taxes.
- ARTICLE 2.** Definition of terms.
- ARTICLE 3.** Property exempt from taxation.
- ARTICLE 4.** General rules as to the return and assessment of property.
- ARTICLE 5.** Special provisions as to returns of merchants, manufacturers and pawnbrokers, and respecting mines and mining claims.
- ARTICLE 6.** Special rules as to returns and assessment of railroad, express, telegraph and insurance companies, and provisions as to other corporations.
- ARTICLE 7.** Special rules as to the assessment of property returnable for taxation by persons, firms or corporations engaged in textile industries, and canals providing power for rent or hire, and cotton seed oil companies and fertilizer companies.
- ARTICLE 8.** Special rules as to banks and bank stock and unincorporated bankers and banking associations.
- ARTICLE 9.** Tax on Incomes; special rules for.
- ARTICLE 10.** Certain corporations to make annual reports and pay annual license fee.
- ARTICLE 11.** Proceedings on default of return and penalties therefor; valuation of property for taxation.

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ARTICLE 12. The County Auditor; appointment, tenure of office and general powers and duties.

ARTICLE 13. Boards of Assessors and Boards of Equalization and their functions.

ARTICLE I.

SUBJECTS AND LIEN OF TAXES.

Sec.

283. Poll tax; who liable for.
 284. What property is taxable.
 285. Who liable for taxes on real estate.
 286. Personal property held in trust or charge for others, who liable for taxes on.

Sec.

287. Taxes a debt due the State, and a first lien upon property taxed; how enforced.
 288. Enforcement of lien on realty.
 289. Collection of tax to pay Township Bonds in aid of railroads.

Section 283. There shall be assessed on all taxable polls in this State an annual tax of one dollar on each poll, the proceeds of which tax shall be applied solely to educational purposes. All males between the ages of twenty-one and sixty years, except those incapable of earning a support from being maimed or from any other cause, shall be deemed taxable polls.

Poll tax;
who liable
for.
Civ. '02, §
259: 1909,
XXVI, 77.

Poll tax constitutional, but limited to use for educational purposes.—State v. Cobb, 8 S. C., 123.

Sec. 284. All real and personal property in this State, and personal property of residents of this State which may be kept or used temporarily out of the State, with the intention of bringing the same into the State, or which has been sent out of the State for sale and not yet sold; all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, of parties residents in this State shall be subject to taxation.

What prop-
erty is tax-
able.
Civ. '02, §
260.

Personal property taxable where found.—Jenkins v. Charleston, 5 S. C., 400. Generally.—State v. Charleston, 1 Mill, 36; Bubow v. City Council, 1 N. & McC., 527; Hayne v. DeLlesseline, 3 McC., 374.

Sec. 285. Every person shall be liable to pay taxes and assessments on the real estate of which he or she may stand seized in fee or for life, by courtesy, in dower, as husband in right of his wife, or may have the care of as guardian, executor, trustee or committee.

Who liable
for taxes on
real estate.
Civ. '02, §
261.

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Personal property held in trust or charge for others; who liable for taxes on.

Civ. '02, § 262.

Sec. 286. All executors, administrators, guardians, trustees, receivers, officers, husbands, fathers, mothers, agents or factors shall be personally liable for the taxes on all personal property which they are required, respectively, to list for taxation by the provisions of this Chapter, and which was in their possession at the time when the return thereof for taxation shall have been made by themselves or the County Auditors, and may retain in their hands a sufficient amount of the property, or proceeds thereof, to pay such taxes for the entire year; and the County Treasurer may collect such taxes by any and all the means provided by Chapter XV, either of the principal or beneficiary, or of the persons so acting as executor, administrator, guardian, trustee, husband, father, mother, agent or factor, receiver or officer.

Taxes a debt due the State, and a first lien upon property taxed; how enforced.

Civ. '02, § 263.

Sec. 287. All taxes, assessments and penalties legally assessed shall be considered and held as a debt payable to the State by a party against whom the same shall be charged; and such taxes, assessments and penalties shall be a first lien in all cases whatsoever upon the property taxed: the lien to attach at the beginning of the fiscal year during which the tax is levied; and such taxes shall be first paid out of the assets of any estate of deceased persons, or held in trust as assignee or trustee, as aforesaid, or proceeds of any property held on execution or attachment; and the County Treasurer may enforce the said lien by execution against the said property; or, if it cannot be levied on, he may proceed by action at law against the person holding said property.

When any real estate shall be sold under any writ, order of proceedings in any Court, the Court shall, on motion of any person interested in such real estate, or in the purchase or proceeds of the sale thereof, order all taxes, assessments and penalties charged thereon to be paid out of the proceeds of such sale as a lien prior to all others.

Liens, as preferred.—State v. Allen, 2 Bay, 244. Must be expressly made so by the law or arise by necessary implication.—Barker v. Smith, 10 S. C., 226. Continues as long as Statute provides.—Ib. It is not given priority over previously attached inchoate right of dower.—Shell v. Duncan, 31 S. C., 547; 10 S. E., 330.

Executions, as to, Section is unconstitutional.—State v. Allen, 2 McC., 55; State v. Columbia, 6 S. C., 11. It was held under certain tax acts that the personalty must be exhausted before land can be sold.—Ebaugh v. Mullinar, 34 S. C., 364; 13 S. E., 613; Curtis v. Renneker, 34 S. C., 468; 13 S. E., 664.

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Under later Acts it has been held that the omission to exhaust the property does not affect the purchaser's title.
Interstate B. & L. Ass'n v. Waters, 50 S. C., 459; 27 S. E., 948.

Sec. 288. That all real property returned delinquent by County Treasurers, upon which the taxes shall not be paid by distress or sale of personal property, or otherwise, shall be seized and sold as provided by law. The distress and sale of personal property shall not be a condition precedent to seizure and sale of any real property hereunder.

Enforcement of lien on realty.
 1902, XXIII, 1132.

See *Johnson v. Jones*, 72 S. C., 288; 51 S. E., 805, as to necessity for sale of personal property in 1876.

Sec. 289. No Board of Township Commissioners, nor County Board of Commissioners, nor any other officer or officers, shall assess or levy, and no County Treasurer nor other officer or officers shall collect any tax for the payment of township bonds, or the coupons thereof, issued in the aid of a railroad: *Provided*, This Section shall not apply to those bonds issued in the aid of railroads that have been completed and finished through such townships as have issued such bonds, nor until such road or portion thereof shall have been accepted by the Railroad Commissioners: *Provided, further*, That the provisions of this Section shall not apply to Newberry County or any part thereof.

Collection of tax to pay township bonds issued in aid of railroads prohibited.
 Civ. '02, § 264.

ARTICLE II.

DEFINITION OF TERMS.

Sec. 290. Meaning of words, terms and phrases.

Section 290. The phrase "real property," as used in this Chapter, shall be held to mean and include not only land, city, town and village lots, but all structures and other things therein contained or annexed or attached thereto which pass to the vendee by the conveyance of the land or lot. The phrase "personal property," as used in this Chapter, shall be held to mean and include all things, other than real estate, which have any pecuniary value, and moneys, credits, investments in bonds, stocks, joint stock companies or otherwise. The term "moneys" or "money" as used in this Chapter, shall be held to mean and include gold, silver

Definition of terms.
 Civ. '02, § 265.

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and other coin, bank bills and other bills or notes authorized to be circulated as money, whether in possession or on deposit subject to the draft of the depositor or person having the beneficial interest therein on demand. The term "credits," as used in this Chapter, shall be held to mean the remainder due, or to become due, to a party, after deducting from the amount of all legal debts, claims and demands in his favor, the amount of all legal debts and demands against him, whether such demands be payable in money, labor or other valuable things. But, in ascertaining such remainder, no deduction shall be made for any obligation to any mutual insurance company, given for insurance, nor any subscription to the capital stock of any joint stock company, nor of any taxes assessed against the party, nor of any subscription to any religious, scientific, literary or charitable purpose, nor of any acknowledgment of a liability not founded on a legal and valuable consideration, nor any more of any joint liability with others than the party honestly believes he will be compelled to pay, nor any contingent liability, nor of any acknowledgment of debt or liability made for the purpose of diminishing the amount of credit to be returned for taxation. The phrase "investment in bonds," as used in this Chapter, shall be held to mean all investments of money or means in bonds of whatsoever kind, whether issued by the government of the United States, or of this or any other State or Territory of the United States, or any foreign government, or any County, city, town or other municipality, or by any corporation or company of this or any other State or country. The phrase "investments in stocks," as used in this Chapter, shall be held to mean and include all investments of money or means in the evidences of indebtedness, other than bonds or bills designed to circulate as money, issued by any government or municipality, and shares of the capital of any corporation, company or association, and every interest in any such shares or portion thereof; also all interests or shares in ships, boats or other vessels used or designed to be used exclusively or partially in navigating the waters within or bordering on this State, whether such ship, boat, or vessel be within the jurisdiction of this State or not, and whether such vessel be registered or licensed at any Collector's office in this State or not. The word "oath,"

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used in this Chapter, shall be held to mean and include an affirmation duly made. The words "person" and "party," and other word or words importing the singular number used in this Chapter, shall be held to include firms, companies, associations and corporations; and all words in the plural number shall apply to single individuals, in all cases in which the spirit and intent of this Chapter require it. All words in this Chapter importing the masculine gender shall apply to females also; and all words in this Chapter importing the present tense shall apply to the future also.

ARTICLE III.

PROPERTY EXEMPT FROM TAXATION.

SEC. 291. Exemptions from taxes.

Section 291. The following property shall be exempt from taxation, to wit: Exemptions
from taxes.

1st. All public schools and the grounds actually occupied by them, not exceeding in any case three acres. Civ. '02, §
266.

2d. All houses used exclusively for public worship, the books and furniture therein, and the ground actually occupied by them, not exceeding in any case two acres, and the parsonage and lot on which it is situate, so long as no income is derived therefrom.

3d. All incorporated public colleges, academies and institutions of learning, with the funds provided for their support, and the grounds and the buildings actually occupied by them and not used with a view to pecuniary profit; but this provision shall not extend to leasehold estates held by others under the authority of any college or other institution of learning.

4th. All real and personal property the rents, issues, incomes and profits of which have been or shall be given to any city, town, village, school district or sub-district in this State exclusively for the endowment or support of public schools therein, so long as such property or the rents, issues, incomes or profits thereof shall be used or applied exclusively for the support of free education in said schools by such city, town, village, district or sub-district.

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5th. All graveyards or cemeteries, except such as are held with a view to profit or speculation in the sale thereof.

6th. All property owned exclusively by the United States or this State.

7th. All buildings owned by Counties and used exclusively as court houses, jails or public offices, with the grounds on which such buildings are or may be erected, not exceeding ten acres in any County.

8th. All lands, houses, fixtures and property owned by any County or city and used exclusively for the support of the poor.

9th. All property belonging to institutions of purely public charity and used exclusively for the maintenance and support of such institutions.

10th. All fire engines and other implements used in the extinguishment of fires, with the buildings and grounds used exclusively for the keeping and preservation thereof, when owned by any city, town or village, or any fire company organized therein.

1896, XXII,
68. 11th. All public squares or grounds and market houses owned by any city, village or town, and used exclusively for public purposes, and not for revenue.

12th. All city, town and village halls owned and used exclusively for public purposes, and not for revenue, by any city, town or village.

City of Columbia v. Tindal, 43 S. C., 547 ; 22 S. E., 341.

13th. All waterworks to supply water for the use of a town or city, the machinery and fixtures connected therewith, and the grounds occupied thereby, when owned by any city or town.

14th. All bonds and stocks of this State. All municipal bonds in this State which, by the terms of the Act under which they are or may be issued, are, or may be, exempted from taxation.

15th. All bonds and stocks of the United States which are not authorized by the laws of the United States to be taxed under State authority.

16th. All rents accruing from real estate which shall not become due within two months after the first day of January of the year in which taxes are to be assessed thereon.

17th. All of any annuity not payable on or before August first of the year for which taxes are to be assessed thereon.

18th. All pensions payable to any person by the United States, or any State of the United States.

19th. All shares of the capital stock of any company or corporation which is required to list its capital and property for taxation in this State.

20th. All the wearing apparel of the person required to make return, and his family.

21st. Articles actually provided for the present subsistence of the person or his family, to the value of one hundred dollars.

22d. Fair grounds of Agricultural and Mechanical Societies, when not used for purposes of profit.

23d. All houses, together with the grounds occupied by them, not exceeding in any case three acres, together with books, furniture and appurtenances therein, belonging to any Young Men's Christian Association in this State and used by them for the purposes of or in support of such association, are exempt from taxation for State, county, school, municipal and special taxes: *Provided*, That the exemption herein provided for shall not apply to such portions of the building as may be rented for other purposes.

Property of
Y. M. C. A.
in this State
exempt from
taxation.

1909, XXVI,
146.

As to enforcement of collection of unpaid taxes upon municipal property not used exclusively for public purposes, and for revenue, see Sec. 469 post.

24th. All bonds hereafter issued or sold, or to be hereafter issued or sold, by the trustees of any school district, or school districts, pursuant to the vote of the majority of the qualified voters of such school district, or school districts, voting at an election heretofore or hereafter held for the erection of buildings, for equipment, for maintaining public schools in such district or districts, or for paying indebtedness of such district or districts, shall be exempt from all taxation for State, county, municipal or school purposes.

School bonds
e x e m p t e d
from t a x a -
tion.

1908, XXV,
1051.

Legislature may exempt County bonds.—Chester County v. White, 70 S. C., 433; 50 S. E., 28.

See Const. 1895, § 1, Art. X.

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ARTICLE IV.

GENERAL RULES AS TO THE RETURN AND ASSESSMENT OF PROPERTY.

Sec.

292. Comptroller-General prescribes form of returns and oath.

293. Annual returns of personal property to be made by every taxpayer.

294. Persons listing for others, personally responsible; listing must be in name of holder of legal title.

295. At what places personal property shall be returned for taxation and taxed.

Sec.

296. When annual returns of personal property, etc., to be made; particulars embraced; character and value of property.

297. When returns of real property shall be made.

298. Annual capitation tax on dogs.

Comptroller-General to prescribe forms.

Civ. '02, § 267.

Section 292. The Comptroller-General shall prescribe the forms of all returns of taxation, and of the oaths that shall be made thereto, and transmit the same to the several County Auditors; and any return made in any way varying therefrom shall not be regarded as a return.

Return and assessment of property.

Civ. '02, § 268.

Sec. 293. Every person of full age, and of sound mind, shall annually list for taxation the following personal property, to wit:

1st. All the tangible personal property in the State, owned or controlled by him.

2d. All the tangible property owned by him or other resident of South Carolina, and under his control, which may be temporarily out of the State, but is intended to be brought into the State.

3d. All tangible personal property owned or controlled by him which may have been sent out of the State for sale, and not yet sold; and

4th. All the moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, owned or controlled by him, whether in or out of this State.

The property of every ward shall be listed by his guardian; of every minor child, having no other guardian, by the father, if living; if the father be dead, by the mother, if living; and if the mother be dead or married, by the person having it in charge; of the wife, by the husband if living and sane, and the parties are residing together; if the husband be dead, or is insane, or is not living with his wife, by the wife; of every person for whose benefit property is

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held in trust, by the trustee; of every deceased person, by the executor or administrator; of those whose property or assets are in the hands of receivers, by such receivers; of every firm, company, body politic or corporate, by the president or principal accounting officer, partner, or agent thereof; of all persons in the hands or custody of any public officer or appointee of a Court, by such officer or appointee; of those absent or unknown, by their agent or the person having it in charge; of lessees of real property, by such lessees.

Sec. 294. All persons required by law to list property for others shall list it separately from their own, and in the name of the owner thereof; but shall be personally responsible for the taxes thereon for the year in which they list it, and may retain so much thereof, or the proceeds of the sale thereof, in their own hands, as will be sufficient to pay such taxes: *Provided*, That all lands shall be listed and assessed as the property of the person or persons having the legal title to, and the right of possession of, the land at the time of listing and assessment, and in case of persons having possession of lands for life, in the name of the life-tenant: *Provided, further*, That in the case of estates administered, the property shall be listed and assessed as the property of "the estate of" the person deceased; that in case of trusts, the property shall be listed and assessed as the property of the trustee, styled as trustee, committee, or guardian, as the case may be; and that in case of bankruptcy, the property shall be listed and assessed as the property of the bankrupt. And any one who shall knowingly return land in the name of one not having the legal title to, and right of possession of, the land at the time of listing and assessment as provided in this Section, shall be liable in an action of damages in an amount at least equal to the tax assessed at the suit of the one entitled to the possession of said land.

"Property" embraces land.—Pollitzer v. Beincampen, 76 S. C., 523; 57 S. E., 475. Listing in name of estate of deceased where estate was not administered.—Koth v. Pallochucala Club, 79 S. C., 514; 61 S. E., 77, Return made by agent as "unknown" renders proceedings void.—Hudson v. Schumpert, 80 S. C., 23; 61 S. E., 104.

Sec. 295. All horses, neat cattle, mules, asses, sheep, hogs, dogs, wagons, carts, and other vehicles used in any business; furniture and supplies used in hotels, restaurants,

How property listed and returned.

Civ. '02, § 269.

How property listed and returned.

Civ. '02, § 270.

A. D. 1912.

and other houses of public resort; all personal property used in or in connection with storehouses, manufactories, warehouses, or other places of business; all personal property on farms; all merchants' and manufacturers' stock and capital, shall be returned for taxation and taxed in the city, village, and town in which it is situated; all bankers' capital and personal assets pertaining to their banking business, in the city, town, and village in which the banking house is located; all shares of stock in incorporated banks located in this State, in the city, town, and village where the bank is located; all property of deceased persons shall be returned for taxation at the residence of the executor or administrator, if in the County where administration may be legally granted; but if the executor or administrator reside out of such County, at the County seat of such County, until distribution thereof, and payment may be made to the parties entitled thereto; and all other personal property shall be returned for taxation and taxed at the place where the owner thereof shall reside at the time of listing the same, if the owner reside in this State; if not, at the residence of the person having it in charge; and all real estate shall be taxed in the County, city, ward, and town where it is located.

Separate tax
returns.

The owners of real property situate partly within and partly without any incorporated town or city are hereby required to list the part in the town or city separately from the part outside the incorporate limits thereof.

Pollitzer v. Beinkampen, 76 S. C., 523; 57 S. E., 475.

When re-
turned and
how valued.

Civ. '02, §
271.

Sec. 296. Every person required by law to list property shall annually, between the first day of January and the twentieth day of February, make out and deliver to the Auditor of the County in which the property is, by law, to be returned for taxation, a statement, verified by his oath, of all the real estate which has been sold or transferred since the last listment of property for which he was responsible, and to whom, and of all the personal property possessed by him, or under his control, on the first day of January of each year, either as owner, agent, parent, husband, guardian, executor, administrator, trustee, receiver, officer, partner, factor, or holder, with the value thereof, on said first day of January, at the place of return, estimating according to

Listing of
agricultural
products for
taxation.

1887, XIX,
798.

the rules prescribed by law: *Provided*, That the returns of the following agricultural products, to wit: corn, cotton, wheat, oats, rice, peas and long forage, made on the day specified by law, shall be the amounts actually on hand on August 1, immediately preceding the date of said return: *And provided, further*, That this shall apply only to such of said products as are actually in the hands of the producer thereof.

Proviso.

Which statement shall set forth:

- 1st. The number of horses, and their value.
- 2d. The number of neat cattle, and their value.
- 3d. The number of mules and asses, and their value.
- 4th. The number of sheep and goats, and their value.
- 5th. The number of hogs, and their value.
- 6th. The value of gold and silver plate, and number of gold and silver watches, and their value.
- 7th. The number of pianofortes, melodeons, and cabinet organs, and their value.
- 8th. The number of pleasure carriages, and their value.
- 9th. The number and value of dogs.
- 10th. The value of goods, merchandise, moneys, and credits, pertaining to his business as a merchant.
- 11th. The value of materials received, used, or provided to be used, in his business as a manufacturer.
- 12th. The value of all machinery, engines, tools, fixtures, and implements used, or provided to be used, in his business as a manufacturer, and of all manufactured articles on hand one year or more.
- 13th. The value of moneys, including bank bills and circulating notes.
- 14th. The value of all credits.
- 15th. The value of investments in the stocks of any company or corporation out of this State, except National Banks.
- 16th. The value of all investments in bonds, except bonds of the United States and this State expressly exempted from taxation.
- 17th. The value of all other property.

Sec. 297. It shall be the duty of all persons, who are required by law to make returns of personal property, to make full returns of all real estate and improvements

Return of
real estate
for taxation.
1910, XXVI,
758.

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thereon between the first day of January and the twentieth day of February, 1898, and at the same time in every fourth year thereafter: *Provided*, That for that portion of the township of Florence, for the County of Florence, lying within the limits of the city of Florence, like returns shall also be made between the first day of March and the fifteenth day of March: *Provided, further*, That in cities having a population of fifty thousand inhabitants or over, such returns of real estate shall also be made between the first day of January and the twentieth day of February in any intermediate year upon the order of the Special Board of Equalization for such cities.

Annual cap-
itation tax on
dogs.

1904, XXIV,
469; 1906,
XXV, 13;
1909, XXVI,
88.

Return.

Collection.

Lien.

Sec. 298. There shall be imposed and assessed on all dogs in this State a capitation tax of fifty cents annually on each dog, except in the County of Horry, where said capitation tax shall be one dollar, the proceeds of which shall be expended for school purposes in the several school districts in which it is located. Dogs shall be returned in the same manner and at the same time that other property is returned for taxation.

The capitation tax on dogs provided for in this Section shall be collected at the same time and in the same manner that other taxes are now collected, and shall constitute a first lien in favor of the State of South Carolina on all property owned by any person who owes any such capitation tax. The collection of the capitation tax provided for in this Section may be enforced against any property owned by the debtor of such tax in the same way and manner as if it were a tax assessed on that specific piece of property. No dog which is not returned for taxation, as required in this Section, shall be held to be property in any of the Courts of this State. It shall be the duty of the County Auditor and the Township Assessors and the School Trustees to enforce the provisions of this Section, so far as it relates to listing dogs for taxation.

ARTICLE V.

SPECIAL PROVISIONS AS TO RETURNS OF MANUFACTURERS AND PAWNBROKERS, AND RESPECTING MINES AND MINING CLAIMS.

SEC.

299. Manufacturers defined; statements additional to return of.

SEC.

300. Pawnbrokers; annual returns; when and to whom made, and what to contain.

301. Mines and mining claims; how assessed and taxed.

Section 299. Every person engaged in making, fabricat-^{Manufactur-}
 ing or changing things into new forms for use, or in refining, ^{ers.}
 rectifying or combining different materials for use, shall be ^{Civ. '02, §}
 held to be a manufacturer, and shall, at the same time he is ^{273.}
 required to list his other property, make and deliver to the
 Auditor of the County in which his place of business is sit-
 uated, a statement of the average value of all articles pur-
 chased, received or otherwise held for the purpose of being
 used by him in his business, at any time during the year
 preceding the first day of January of the year in which the
 return is made; to ascertain which he shall set down the
 value on hand on the first day of January of the preceding
 year, or other time of commencing business during the year,
 add thereto all purchases, when made, at cost, ascertain the
 average value on hand for the month, deduct the average
 amount of sales for the month, at cost, and the remainder
 shall be the average on hand for that month; and, in like
 manner, ascertain the average value for each month, down
 to the first day of January of the year in which the return is
 to be made, add together such monthly values, divide the
 aggregate by the number of months he has been in business
 during the preceding year, as aforesaid, and to the quotient
 add the moneys and credits on hand the first day of January
 of the year in which the return is made, and the product of
 this last addition shall be the sum upon which he shall pay
 taxes for the year in which the return is made: *Provided,*
 That when business is opened after the first day of January
 of the preceding year and closed before the first day of Jan-
 uary of the year in which the return is made, the parties
 opening and closing such business shall make returns on
 material—the time of opening and closing such business
 being the times used as the basis of the return as established

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in this Section. And he shall also list at their full value all machinery, tools, implements, fixtures and engines used or purchased for use in his business (except such as have been appraised for taxation as part of the realty), together with all manufactured articles which have been on hand and remain unsold for one year or more prior to the first day of January of the year in which the return is made; also all the moneys and credits pertaining to said business on hand on said first day of January: *Provided*, That all materials provided for use in said business shall be estimated as on hand until sold, or remain on hand in a manufactured state for one year.

Pawnbrokers.

Sec. 300. Every pawnbroker, person, or company engaged in the business of receiving property on pledge, or as security for money or other thing advanced to the pawner or pledger, shall, annually, in the month of January, or before the twentieth of February, return, under oath, to the Auditor of the County in which his place of business is located, the average monthly value of all property pawned or pledged to him during the year ending January first of the year in which the return shall be made, or, if engaged in the business for less than a year prior to said first day of January, then for such shorter period; and such average shall be ascertained by the rule prescribed in this Chapter for ascertaining the average value of the property of manufacturers, and taxes charged on such average value as upon other property at the same place.

Mines and mining claims.

Civ. '02, § 275; 1909, XXVI, 77.

Sec. 301. All personal property used in connection with mines and mining claims, and all land not actually mined connected with mines and mining claims, shall be assessed for taxation and taxed as is done in the case of all other personal and real estate. In all cases where land is actually mined, such land shall not be assessed for taxation or taxed, but, in lieu thereof, the gross proceeds alone of such mines and mining claims shall be assessed and taxed. And such gross proceeds shall be ascertained and determined by the cash market value of the material mined.

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ARTICLE VI.

SPECIAL RULES AS TO RETURNS AND ASSESSMENTS OF RAILROAD, EXPRESS, TELEGRAPH AND INSURANCE COMPANIES, AND PROVISIONS AS TO OTHER CORPORATIONS.

Sec.

- 302. Railroads and like companies to return property in use as personalty; lien for taxes; return, when and where made.
- 303. Railroad companies; annual returns to Comptroller-General; how made and what to contain.
- 304. The same; annual returns to County Auditors; what to embrace.
- 305. How value of railroad property fixed and apportioned.
- 306. Comptroller-General prescribes forms of return and oath.
- 307. Receiver makes returns when road in his hands.
- 308. Comptroller-General's powers relative to returns and investigation touching same.
- 309. State Board of Assessors; who constitute; annual meeting and proceedings.
- 310. Comptroller-General certifies action of Board to County Auditors, who conform their duplicates thereto.
- 311. Where railroad company fails to make returns, Board to ascertain value and add penalty; result certified to Auditors.
- 312. Attorney-General to bring action, to test right of railroad companies to exemption from taxation.
- 313. How railroad property not on books may be assessed.
- 314. Telegraph companies defined.
- 315. Express companies defined.
- 316. Sleeping car companies defined.
- 317. Tax returns of telegraph, telephone, express and sleeping car companies.
- 318. Comptroller-General to examine such returns.

Sec.

- 319. Action of State Board of Assessors thereon.
- 320. Value of property; how ascertained.
- 321. Value of property in this State to be ascertained.
- 322. Board of Assessors to certify values to Comptroller-General.
- 323. Auditors to require agents to report and apportion values in Townships, etc.
- 324. Penalties on such companies for failure to pay taxes assessed.
- 325. Special provisions as to past due taxes on such companies.
- 326. Penalties on such companies for failure to make returns; duties of Comptroller-General and Auditors in such case.
- 327. Returns of such companies having principal office out of State; Comptroller-General prescribes form; his powers relative thereto.
- 328. Domestic insurance companies; returns of personalty; where made.
- 329. Corporations organized under laws of State and owning property therein, and elsewhere; how assessed and taxed.
- 330. Capital of domestic corporation owning no property in State not to be taxed.
- 331. Corporations in general to list property as individuals are required to list.
- 332. Companies incorporated under joint charter to be assessed and taxed as may be prescribed therein.
- 333. Refusal to pay taxes works forfeiture of charter.

Prior to the Constitution of 1895, municipalities were not bound by assessment by the State Board.—State ex rel. So. Rwy. Co. v. Talley, 50 S. C., 374; 27 S. E., 803.

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Railroads
and other
companies of
like charac-
ter.

Civ. '02, §
276.

Section 302. The road-bed, right-of-way, station buildings, toll houses, structures, tools, machinery, poles, wires, fixtures, vessels and real estate owned and necessarily in daily use by any railroad, turnpike, plank road, bridge, telegraph, canal or slack-water navigation company, in the prosecution of its business, shall, for the purposes of this Chapter, if the company be organized in this State, be treated as personal property. But the lien for taxes shall attach to the property as if the same were real property, and the President, Secretary or principal accounting officer thereof shall include the value thereof in the return of the other personal assets of such company for taxation; which return shall be made in the month of January, or before the twentieth of February, annually, to the several Auditors of the Counties in which such road, canal, bridge, telegraph line, or slack-water navigation company may be situated, according to the value of such property in each, together with a statement of the amount of such assets situate in each city, town, village or ward in said Counties, respectively; and the value of the movable assets of such company shall be apportioned to each town, city, ward or village in proportion to the value of the road-bed, canal, slack-water navigation, bridge or telegraph line in each.

Railroad held not liable for taxes, when exempt by its charter, as against bonds having first statutory lien thereon.—*Hand v. R. R. Co.*, 17 S. C., 219. An assessment to pay expenses of Railroad Commissioners valid.—*C. C. & A. R. R. Co. v. Gibbes*, 24 S. C., 60; *Ib.*; 27 S. C., 385; 4 S. E., 49.

Returns, when
made.

Civ. '02, §
277.

Sec. 303. The President and Secretary of every railroad company whose track or road-bed, or any part thereof, is in this State, shall annually, between the first of January and twentieth of February, return to the Comptroller-General, under their oaths, the total length thereof in each County, city, town and incorporated village in this State; the total length of their double track in this State, and the length thereof in each County, town, city and incorporated village of this State; the total length of all their side tracks, and the length thereof in each city, County, town and incorporated village in this State, the location and value of all their shops, depots, grounds, station houses, wood and water stations, buildings, stationary engines, tools, implements and fixtures in South Carolina, and all other real estate necessary

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to the daily running operations of the road; the number and value each of all their locomotive engines, passenger, freight, platform, gravel, construction, hand and other cars; the value of their moneys and credits; the total value of the entire road, appurtenances and equipments, and the total value of said road in South Carolina, with its appurtenances and equipments.

Sec. 304. The President and Secretary of every railroad company mentioned in the preceding Section shall also, annually, between the first of January and the twentieth of February, return to the County Auditor of each County in South Carolina through or into which such road, or any part thereof, may be located, a statement of the value of said road and the property of the company in said County, and in each of the towns, cities and villages of said County through or into which said road or part thereof is located, in the manner and form required by this Chapter in the return to the Comptroller-General.

Returns, when made.
Civ. '02, § 278.

Sec. 305. In ascertaining the value of the road and property of any railroad company, the value of the right-of-way, bed and track of the whole road shall be fixed and such value apportioned *pro rata* to each mile of the main track; and to the value of the number of miles of main track in each town, city and incorporated village of each County in this State through and into which said road is located, shall be added the value of the real estate, fixtures, stationary engines, tools, implements, machinery and other stationary property provided for use in the daily operations of the road situate in said town, city or village; and the total value of the rolling stock, moneys and credits shall be apportioned *pro rata* to each mile of the main track of said road, and the amount thereof, according to the number of miles of main track in each town, city and village in this State, added to the value of the main track in such town, city and village, respectively; and the aggregate value of said road and property in this State, and in each County, city, town and incorporated village of this State through or into which said road is located, shall be stated in said return.

How made; how valued.
Civ. '02, § 279.

Sec. 306. The return and oath required of officers of railroad companies shall be made in such form as shall be prescribed by the Comptroller-General.

How verified.
Civ. '02, § 280.

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When in
hands of a
Receiver, to
be made by
Receiver.

Sec. 307. If any railroad, its appurtenances, equipments and property of any kind soever shall be in the hands of a receiver or other officer, such receiver or other officer shall make the returns required by this Chapter.

Civ. '02, §
281.

Comptroller-
General may
question of
officers, ex-
amine books,
etc.

Sec. 308. The Comptroller-General, or any person appointed by him for that purpose, may put any question, in writing, he may deem proper to any officer, agent or receiver of any railroad company having any portion of its track in this State; and he may summon any officer, receiver or agent of such company to appear before him and testify, under oath (which oath said Comptroller-General is authorized to administer), touching such railroad company's property, and the management and disposition thereof; and he may, by himself or some person appointed by him, examine the books and papers of such company in the hands of the company, or any of its officers, agents or receivers; and all such officers, agents and receivers shall answer, under oath, all such questions as shall be put to them, or either of them, by said Comptroller-General or any person appointed by him for that purpose, relative to the condition, amount and value of said company's property and the management or disposition thereof.

For violation of this section, see Criminal Code, § 676.

State Board
of Assessors
of railroad
property.

Civ. '02, §
283.

Time of meet-
ing.

Assessment.

Changes of
valuations.

Sec. 309. The Treasurer of the State, Secretary of State, Comptroller-General and Attorney-General of the State, and the Chairman of the Board of Railroad Commissioners of this State, shall constitute a State Board of Assessors, a majority of whom shall constitute a quorum for the transaction of business, who shall meet at the office of the Comptroller-General on the second Wednesday of May, annually, or as soon thereafter as the Comptroller-General shall notify said Board that the returns of the several railroad companies have been filed in his office, and shall determine and assess the value of the property of railroad companies whose roads are wholly or partially in this State, returned to the Comptroller-General under the provisions of this Chapter, increasing the value of the road and property of such company or companies as shall have been, in their judgment, returned at too low a valuation, and diminishing the values of such as may have been returned at too high a valuation. They shall

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Record.

Decisions.

Comptroller-General to certify to Auditors.

Civ. '02, § 284.

Auditors to charge taxes.

Proceedings in case of no return.

Civ. '02, § 285.

Penalty.

Auditors to be certified.

Civ. '02, § 286.

Proceedings to test right of railroad companies to exemption from taxation.

One action for all taxes.

Taxes recovered; how distributed.

keep a record of their proceedings, which shall be signed by all of the members present and deposited with and kept by the Comptroller-General; and a majority of the members present shall be competent to decide all questions which may come before said Board.

Sec. 310. The Comptroller-General shall certify to the County Auditor of each County into which any railroad or part thereof may be located, the valuations of railroad property in said County as determined and assessed by the State Board of Assessors, with all additions made to or deductions from the valuation of the property of any railroad company in said County by the State Board of Assessors; and the County Auditor shall charge the railroad company or companies in the several cities, towns, townships and incorporated villages of their County, for taxation, with the valuations determined and assessed by the State Board of Assessors.

Sec. 311. If any railroad company, or its officers, shall fail to make the returns to the Comptroller and to each County Auditor in each County in which such railroad or part thereof may be located, as herein required, on or before the twentieth day of February, annually, the State Board of Assessors shall proceed to ascertain the value of said company's road and property according to the principles prescribed herein from the best information they can conveniently obtain, and add thereto fifty per centum as penalty, and apportion the same to the several Counties, towns, townships, cities and incorporated villages through or into which said road or any part thereof may be located, and the Comptroller-General shall certify the same to the several County Auditors, who shall place the same on their duplicates for taxation.

Sec. 312. The Attorney-General is hereby directed to proceed to institute proceedings to test the right of any railroad company in this State to an exemption from taxation if in his judgment he thinks it proper to do so.

The State, in any such case, may bring one action for all taxes due, State, County, "ordinary" and "special," and recover the whole in one proceeding.

Any taxes so recovered shall, after paying the expenses of collection, be distributed amongst the State and Counties

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interested, according to the respective interests of each under their respective levies for the year for which recovery is made.

Right of
compromise.

The Railroad Board of Assessors, on behalf of the State, and the Supervisors of the Counties and the attorneys representing them in any such proceeding, on behalf of the Counties, shall have the right to compromise and settle with any such railroad companies as may be proceeded against under this Section on such basis as they shall deem proper and just.

Nothing contained in Chapter III, Title II, Part II of the Code of Civil Procedure shall apply to any action or proceeding instituted under this Section.

Other remedies
not impaired.

Nothing in this Section shall be construed to impair any other remedy than those herein provided which the State or any of its agents or the Counties now have for the collection of any such taxes.

The Circuit Court has jurisdiction of an action brought under this Section, and the complaint must show that the tax has been legally assessed.—*State v. Cheraw and D. Ry. Co.*, 54 S. C., 584; 32 S. E., 691.

How railroad
property
not on tax
books may be
assessed.

Civ. '02, §
287.

Sec. 313. When railroad property has not been returned nor assessed for any year, and not put on the tax books for such year or years, and no taxes were paid thereon, and more than a year has elapsed since taxes for such years, if assessed at the proper time, would have been due, the said taxes shall be assessed by the Railroad Board of Assessors, which shall be convened in extra session by the Secretary of State for such purpose, on the petition of any County Supervisor in whose County any part of such railway may lie.

How value
of fixed.

Such Board shall fix the value of said road for each year in which it shall appear that said road has been off the books, separately, and its valuation, and this, with the number of miles in each County, shall be certified to the respective County Auditors, as the valuation of railroad property is done when regularly returned and assessed.

Auditor to
enter assess-
ment in tax
books.

Said Auditor shall enter the said assessment each year separately in the tax books in his office for the respective years, and charge the taxes on said assessment under the levies for those years, as if they had been assessed and levied at the usual time; and he shall furnish a certified statement to the County Treasurer, showing the property

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taxed, the value of the same, and the amount due for each year separately.

The Treasurer shall immediately demand the said taxes of the company in default; or, if he find the property in control of another company, demand shall be made of the company which he finds in the possession of the property.

Treasurer to demand taxes.

Said taxes shall become due as soon as said demand is made, and if they are not paid within sixty days from the demands made, there may be an action brought in the name of the State, by the Attorney-General, and such counsel as the Counties interested may employ, against the company in default, and any company which may be in possession of the property which has escaped taxation, for the recovery of said taxes; and suit may be brought for each year separately, or for all the years consolidated.

Suits may be brought for collection of; when and how.

The assessment herein provided for shall be limited to the period of ten years immediately preceding the restoration of said railroad property to the tax books, and no recovery shall be had hereunder for a longer period than ten years.

Limitation of assessment.

The provisions of this Section shall not apply to any railroad property which may be hereafter adjudged by the Courts to be exempt by law from the taxes which may be assessed against it under this Section.

Nothing herein contained shall be construed to impair in any way the right of the State, or any of its officers or agencies, to collect such taxes in any other method provided by law.

Other remedies not impaired.

Sec. 314. Any joint stock association, company, copartnership or corporation, whether incorporated under the laws of this State, or of any other State, or of any foreign nation, engaged in transmitting to, from, through, in or across the State of South Carolina telegraphic messages, shall be deemed and held to be a telegraph company.

Telegraph companies defined.

Civ. '02, § 288.

Sec. 315. Every joint stock association, company, copartnership or corporation incorporated or acting under the laws of this or any other State, or any foreign nation, engaged in conveying to, from, through, in or across this State, or any part thereof, money, packages, gold, silver, plate, merchandise, freight or other articles, under any contract, express or implied, with any railroad company, or the managers, lessees, agents or receivers thereof, pro-

Express companies defined.

Civ. '02, § 289.

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vided such joint stock association, company, copartnership or corporation is not a railroad company, shall be deemed and held to be an express company within the meaning of this article.

Southern Express Co. v. Hood, 15 Rich., 66.

Sleeping car
companies de-
fined.

Civ. '02, §
290.

Sec. 316. Every joint stock association, company, copartnership or corporation incorporated or acting under the laws of this or any other State, or of any foreign nation, and conveying to, from, through, in or across this State, or any part thereof, passengers or travelers in palace cars, drawing-room cars, sleeping cars, dining cars, or chair cars, under any contract, express or implied, with any railroad company, or the managers, lessees, agents or receivers thereof, shall be deemed and held to be a sleeping car company for the purposes of this Article.

Telegraph,
Telephone,
Express, and
Sleeping Car
companies to
make verified
statements to
Comptroller-
General. Con-
tents, etc.

Civ. '02, §
291.

What state-
ment must
show.

Sec. 317. Every such telegraph, express, sleeping car, and every telephone company doing business in this State, whether incorporated under the laws of this State, or of any other State, or of any foreign nation, shall annually, between the first day of January and the twentieth day of February, make out and deliver to the Comptroller-General of this State a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the thirty-first day of December next preceding, showing,

First. The total capital stock or capital of said association, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share; and in case no shares of capital stock are issued, in what manner the capital thereof is divided, and in what manner such holdings are evidenced.

Third. Its principal place of business.

Fourth. The market value of the said shares of stock on the first day of December next preceding, and if such shares have no market value, then the actual value thereof; and in case no shares of stock have been issued, state the market value, or the actual value in case there is no market value, of the capital thereof, and the manner in which the same is divided.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State of South Carolina, and the location and assessed value thereof in each County or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the improvements thereon, owned by said association, company, copartnership or corporation, situate outside the State of South Carolina, and not used directly in the conduct of the business, with a specific description of each piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situate.

Seventh. All mortgages upon the whole or any part of its property, together with the dates and amounts thereof.

And in the case of telegraph and telephone companies:

Eighth. (a) The total length of the lines of said association or company.

(b) The total length of so much of their lines as is outside the State of South Carolina.

(c) The length of the lines within each of the Counties and Townships within the State of South Carolina.

And in the case of an express company:

Eighth. (a) The total length of the lines or routes over which such association, company, copartnership or corporation transports such merchandise, freight or express matter.

(b) The total length of such lines or routes as are outside the State of South Carolina.

(c) The length of such lines or routes within each of the Counties and Townships within the State of South Carolina.

And in the case of a sleeping car company:

Eighth. (a) The total length of the main lines of all the railroad companies over which said cars are run.

(b) The total length of so much of the main lines of all the railroad companies over which said cars are run as is outside the State of South Carolina.

(c) The length of the lines of said railroad companies over which said cars are run within each of the Counties and Townships within the State of South Carolina: *Pro-*

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vided, That where the railroads over which said lines run have double tracks, or a greater number of tracks than a single track, the statement shall only give the mileage as though such tracks were but a single track; and, in case the Comptroller-General shall require it, such statement shall show in detail the number of miles of each or any particular railroad system or division.

Comptroller-General to examine statements; duties of in relation thereto, etc.

Civ. '02, § 292.

Sec. 318. Upon the filing of such statements, the Comptroller-General shall examine them, and each of them, and if he shall deem the same insufficient, or in case he shall deem that other information is requisite, he shall require such officer to make such other and further statements as said Comptroller-General may call for. In case of the failure or refusal of any association, company, copartnership or corporation to make out and deliver to the Comptroller-General any statement or statements required by Sections 314 to 317 inclusive, such association, company, copartnership or corporation shall forfeit and pay to the State of South Carolina one hundred (\$100) dollars for each additional day such report is delayed beyond the twentieth day of February, to be sued and recovered in any proper form of action in the name of the State of South Carolina on the relation of the Comptroller-General, and such penalty, when collected, shall be paid into the general fund of the State.

Comptroller-General to lay statements before the State Board of Assessors.

Civ. '02, § 293.

Sec. 319. Upon the meeting of the State Board of Assessors for the purpose of assessing railroad and other property, said Comptroller-General shall lay such statements, with such information as may have been furnished him, before said State Board of Assessors, who shall thereupon value and assess the property of each association, company, copartnership or corporation, in the manner hereinafter set forth, after examining such statements and after ascertaining the value of such properties therefrom, and from such other information as they may have or obtain. For that purpose they may require the agents or officers of said association, company, copartnership or corporation to appear before them with such books, papers or statements as they may require, or they may require additional statements to be made to them, and may compel the attendance

Duties of Board of Assessors, etc.

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of witnesses, in case they shall deem it necessary, to enable them to ascertain the true cash value of such property.

Sec. 320. Said State Board of Assessors shall first ascertain the true cash value of the entire property owned by said association, company, copartnership or corporation from said statements or otherwise, for that purpose taking the aggregate value of all the shares of capital stock, in case said shares have a market value, and in case they have none, taking the actual value thereof, or of the capital of said association, company, copartnership or corporation, in whatever manner the same is divided, in case no shares of capital stock have been issued: *Provided, however,* That in case the whole, or any portion, of the property of such association, company, copartnership or corporation shall be incumbered by a mortgage or mortgages, such Board shall ascertain the true cash value of such property by adding to the market value of the aggregate shares of stock or to the value of the capital in case there shall be no such shares, the aggregate amounts of such mortgage or mortgages, and the result shall be deemed and treated as the true cash value of the property of such association, company, copartnership or corporation. Such Board of Assessors shall, for the purpose of ascertaining the true cash value of the property within the State of South Carolina, next ascertain from such statements, or otherwise, the assessed value for taxation, in the localities where the same is situated, of the several pieces of real estate situate within the State of South Carolina and not specifically used in the general business of such association, companies, copartnerships or corporations, which said assessed values for taxation shall be by said Board deducted from the gross value of the property as above ascertained. Said State Board of Assessors shall next ascertain and assess the true cash value of the property of such associations, companies, copartnerships or corporations within the State of South Carolina by taking the proportion of the whole aggregate value of said associations, companies, copartnerships or corporations, as above ascertained, after deducting the assessed value of such real estate without the State, which the length of the lines of said associations, companies, copartnerships or corporations, in the case of telegraph and telephone companies within the

Board of assessors to ascertain value of property; how, etc.

Civ. '02, § 294.

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State of South Carolina, bears to the total length of the lines thereof; and in the case of palace, drawing-room, sleeping, dining or chair car companies, the proportion shall be the proportion of such aggregate value, after such deductions, which the length of the lines within the State, over which said cars are run, bears to the length of the whole lines over which said cars are run; and in the case of express companies, the proportion shall be the proportion of the whole aggregate value, after such deductions, which the length of the lines or routes within the State of South Carolina bears to the whole length of the lines or routes of such associations, companies, copartnerships or corporations, and such amount, so ascertained, shall be deemed and held as the entire value of the property of said associations, companies, copartnerships or corporations within the State of South Carolina. From the entire value of the property within the State so ascertained there shall be deducted by the Board the assessed value for taxation of all real estate, structures, machinery and appliances within the State and subject to local taxation in the Counties and Townships, as hereinbefore described in Item No. 5 of Section 317, and the residue of such value so ascertained, after deducting therefrom the assessed value of such local properties, shall be by said Board assessed to said association.

How value
of property
ascertained.

Civ. '02, §
295.

Sec. 321. Said State Board of Assessors shall thereupon ascertain the value per mile of the property within the State by dividing the total value, as above ascertained, after deducting the specific properties locally assessed within the State by the number of miles within the State, and the result shall be deemed and held as the value per mile of the property of such association, company, copartnership or corporation within the State of South Carolina.

Board of As-
sessor's to
certify value
to Comptrol-
ler-General,
who certifies
same to Audi-
tors; Audi-
tors to appor-
tion, and how.

Civ. '02, §
296.

Sec. 322. Said State Board of Assessors shall thereupon, for the purpose of determining what amount shall be assessed by it to said association, company, copartnership or corporation in each County in the State through, across, into or over which the line of said association, company, copartnership or corporation extends, multiply the value per mile, as above ascertained, by the number of miles in each of such Counties as reported in said statements, or as otherwise ascertained, and the result thereof shall be by

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said Board certified to the Comptroller-General, who shall thereupon certify the same to the Auditors, respectively, of the several Counties through, into, over or across which the lines or routes of said association, company, copartnership or corporation extend, and such Auditors shall apportion the amount certified for their Counties, respectively, among the several Townships into, through, over or across which such lines or routes extend in proportion to the length of the lines in such townships.

Sec. 323. To enable said County Auditors to properly apportion the assessments between the several Townships, they are authorized to require the agent of said association or company to report to them, respectively, under oath, the length of the lines in each Township, and the Auditor shall thereupon add to the value so apportioned the assessed valuation of the real estate, structures, machinery, fixtures and appliances situated in any Township, and extend the taxes thereon upon the duplicates, as in other cases.

Auditors may
require agents
to report, etc.

Civ. '02, §
297.

Sec. 324. In case any such association, copartnership or corporation as named in Sections 314 to 317 inclusive shall fail or refuse to pay any taxes assessed against it in any County or Township in the State, in addition to other remedies provided by law for the collection of taxes, an action may be prosecuted in the name of the State of South Carolina by the Solicitors of the different Judicial Circuits of the State on the relation of the Auditors of the different Counties of this State, and the judgment in said action shall include a penalty of fifty per cent. of the amount of taxes as assessed and unpaid, together with reasonable attorney's fees for the prosecution of such action, which action may be prosecuted in any County into, through, over or across which the line or route of any such association, copartnership, company or corporation shall extend, or in any County where such association, company, copartnership or corporation shall have an office or agent for the transaction of business. In case such association, company, copartnership or corporation shall have refused to pay the whole of the taxes assessed against the same by said State Board of Assessors, or in case such association, company, copartnership or corporation shall have refused to pay the taxes, or any portion thereof assessed to it in any particular County or Counties,

Penalty for
failure or re-
fusal to pay
the taxes as-
sessed, and
how collect-
ed; such
taxes to be
collected by
Comptroller-
General;
how disposed
of.

Civ. '02, §
298.

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Township or Townships, such action may include the whole or any portion of the taxes so unpaid in any County or Counties, Township or Townships; but the Attorney-General may, at his option, unite in one action the entire amount of the tax due, or may bring separate actions in each separate County or Township, or join Counties and Townships, as he may prefer. All collection of taxes for or on account of any particular County made in any such suit or suits shall be by said Comptroller-General accounted for as a credit to the respective Counties for or on account of which such collections were made by said Comptroller-General at the next ensuing settlement with such County; but the penalty so collected shall be credited to the general fund of the State; and upon such settlement being made, the Treasurers of the several Counties shall, at their next settlements, enter credits upon the proper duplicates in their offices, and at the next settlement with such County report the amount so received by him in his settlement with the State, and proper entries shall be made with reference thereto: *Provided, however,* That in any such action the amount of the assessment fixed by said State Board of Assessors, and apportioned to such County, or apportioned by the County Auditor to any particular Township, shall not be controverted.

Special provisions as to past due taxes on such companies.

Civ. '02, § 299.

Sec. 325. All moneys now due the State, or which may become due on the 20th day of February, 1898, or at any other time, on account of any assessment or charge made against any of the joint stock associations, persons, companies or corporations on account of per cent. on gross or net earnings for the preceding year or years, and all penalties and charges thereon growing out of any failure to make reports on payments as now required by the provisions of any Act repealed hereby, shall be paid and collected under the provisions of said repealed Acts the same as if said Acts were not repealed; and any suit brought for the recovery of such money, taxes or penalties shall be begun under the provisions of said repealed Acts and prosecuted to final judgment thereunder in all respects, the same as if said Acts were continued in full force; and it is hereby expressly provided that all the rights of the State accrued, or which may accrue on the 20th day of February, 1898, on

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account of receipts for the preceding years, are hereby saved from the operations of the aforesaid repealing clause.

Sec. 326. If any express, telegraph, telephone or sleeping car company shall fail to make and deliver to the Comptroller-General the statement required in this Chapter on or before the 20th day of February, annually, such company shall forfeit and pay to the State of South Carolina five hundred dollars as a penalty; and the Comptroller-General shall certify the fact of such failure to the Auditor of any County in this State in which said company may have an office or an agent, and said Auditor shall place the same on the duplicate of said County; and if any express or telegraph company shall fail to make to the Auditor of any County in this State the statement required by this Chapter on or before the 20th day of February of any year, such County Auditor shall notify the Comptroller-General thereof; and if the Comptroller-General shall have received from said company the statement required to be made to him by said company, he shall certify the amount returned as in said County to such County Auditor, and add thereto, as penalty, the sum of ten dollars, which shall be charged to said company on the duplicate of said County, collected and paid over to the State Treasurer, in the same manner herein provided as to the penalty for not making the return to the Comptroller-General: *Provided*, That if any express or telegraph company shall fail to return the statement required by this Chapter to the Comptroller-General, and the Comptroller-General shall certify such failure to any County Auditor, such County Auditor shall proceed to ascertain the gross receipts of each agent of said company in his County for the year ending the first day of January of that year, together with the value of all other property of the company in his County, add fifty per cent. thereto as penalty, and charge the company with taxes thereon at the several localities required by this Chapter, without any reduction for expenses paid out by the company. And if such company shall have no principal office or agency in this State to which the other agents in the State are required to make return, each agent thereof in any County shall make return in the month of January on or before the 20th of February, annually, of the gross receipts of his agency

Penalty for
failure.
Civ. '02, §
300.

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for the year ending the first day of that month, with the value of all other property of the company in the city, village or town in which his agency is situate, and the County Auditor shall charge the company with taxes thereon at the same rates as other property in the same localities; and if such agent or agents refuse or neglect to make such return, the County Auditor shall ascertain the amount of such gross receipts and value of property, add fifty per cent. thereto as penalty, and charge such company with taxes thereon at the same rates charged other property at the several localities where such property may be situate and such agencies located.

Returns; how made.

Civ. '02, § 301.

Sec. 327. All returns required to be made by express, sleeping car and telephone and telegraph companies having their principal offices out of this State, shall be made in such form as the Comptroller-General shall prescribe; and the Comptroller-General is authorized to require answers, under oath, to any questions he may put to the principal, or any other agent of any of said companies in this State, and to examine any of such agents, under oath, relative to the property and affairs of such companies, and the management thereof, which oath he may administer.

Domestic companies.

Civ. '02, § 303.

Sec. 328. Every insurance company organized under the laws of this State shall return all its personal property, moneys, credits (including notes taken on subscription of stock), investments in bonds, stocks, securities and assets of every kind for taxation at the place where its principal office is located.

Other corporations.

Civ. '02, § 304.

Sec. 329. Any company or corporation organized under the laws of this State, and owning property in any other State or country, as well as in this State, shall not be required to return its capital for taxation in this State, but shall return such property as it owns in this State, and such proportion of the value of its other property as if owned by the individual residents of this State, would be taxable in this State; and if such return be made by such company, the shareholders therein shall not be required to return their shares for taxation.

Corporations created under law of the State, owning no property in the State.

Civ. '02, § 305.

Sec. 330. A corporation organized under the laws of this State, but owning no property in this State, shall not be required to return its capital for taxation in this State.

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Sec. 331. All companies and corporations, whether organized under the laws of this State or not, the manner of listing whose personal property is not otherwise specifically provided for by law, shall list for taxation all their personal and real property and effects at the same time, in the same manner, and in the same localities as individuals are required to list similar property and effects for taxation.

How property of corporations listed.

Civ. '02, § 306.

Sec. 332. Any company incorporated under a joint charter granted by this and some other State or States, and the manner of taxing which, or the amount upon which it shall be taxed, or the specific proportion of its capital or property upon which taxes shall be assessed in South Carolina, is prescribed or fixed in its charter, shall be assessed for taxation and taxed as prescribed in this Chapter until otherwise legally provided.

Corporations organized as well under laws of this as of another State.

Civ. '02, § 307.

Sec. 333. Whenever any corporation chartered under the laws of this State shall, within thirty days after the time required and permitted by law for taxes to be paid, with or without penalty, as now required by law, refuse, neglect or omit to pay the taxes for State and County purposes, as assessed and levied upon the property of such corporation, the charter of such corporation, with all the rights, privileges and franchises thereunder, shall become and be deemed forfeited, and the corporate existence of such corporation shall be annulled.

Refusal to pay.

Civ. '02, § 308.

Works a forfeiture.

In every such case it shall be the duty of the Attorney-General, and he is hereby required, to bring an action against such corporation for the purpose of vacating and annulling the Act incorporating such corporation and all Acts amendatory or in renewal thereof in the manner prescribed by Title XIII, Chapter II of the Code of Civil Procedure of this State.

Attorney-General to bring action.

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ARTICLE VII.

SPECIAL RULES AS TO PERSONS, FIRMS OR CORPORATIONS ENGAGED IN TEXTILE INDUSTRIES, CANALS PROVIDING POWER FOR RENT OR HIRE, AND COTTON SEED OIL COMPANIES AND FERTILIZER COMPANIES, AND BANKS INCORPORATED IN THIS STATE WHICH HAVE BRANCHES IN MORE THAN ONE COUNTY.

SEC.

334. Manufacturers of textile fabrics; canals; cotton seed oil, fertilizer companies and banks with branches in more than one county to make returns to Auditor.

SEC.

335. Returns to be forwarded to Comptroller-General.

336. State Board of Equalization to pass on same.

337. State Board of Equalization to certify thereon to the Auditor.

Manufacturers of textile fabrics, canals furnishing power, cotton seed oil and fertilizer companies to make returns to Auditor.

Civ. '02, § 309; 1909, XXVI, 36.

Section 334. All individuals, firms or corporations engaged, or that may be hereafter engaged in this State, in the manufacture of textile fabrics of any kind, and canals providing power for rent or hire, and cotton seed oil companies and fertilizer companies, and banks incorporated in this State which have branches in more than one County, shall make their returns of property belonging to or connected with such manufacture, as usual, for taxation, to the Auditor of the County in which the property is situate, and after the same shall be passed on by the Township and County Boards of Equalization they shall forward all such returns, with such comments and suggestions as he shall see fit, to the Comptroller-General as soon as the time for making returns has expired.

Forwarded to Comptroller-General.

Civ. '02, § 310.

Sec. 335. It shall be the duty of the Comptroller-General to receive and safely keep said returns in his office, and the State Board of Equalization shall meet annually, at Columbia, at such time and place in said city as shall be fixed and notified to them by the Comptroller-General, and when they so convene he shall lay before said Board said returns, with such comments and suggestions thereon as he shall see fit.

State Board of Equalization.

Civ. '02, § 311.

Sec. 336. The State Board of Equalization are hereby authorized and empowered to investigate and pass on said returns and to equalize the same both as to real and personal property, in order to obtain uniformity of taxation upon the property of such industries; and to that end may adopt and promulgate such rules and regulations as may be just and

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equitable. In case any return so laid before said State Board is raised by it, then and in such case an adjourned meeting must be fixed by the Board for hearing the party or corporation whose return is raised, and due notice thereof by mail must be given of said meeting to said party or corporation.

Sec. 337. When said State Board shall have finally acted on said returns, their actions shall be certified to the Comptroller-General, who shall transmit the same, in so far as it affects the property of any County, to the Auditor of said County, who shall enter the same, according to law, on the tax books of his County.

Certificate to Auditor.

Civ. '02 § 337.

ARTICLE VIII.

SPECIAL RULES AS TO BANKS AND BANK STOCK AND UNINCORPORATED BANKERS AND BANKING ASSOCIATIONS.

SEC.

- 338. Bank stock; how listed and where taxed.
- 339. Real estate taxed where located.
- 340. Lists of stockholders and depositors to be kept for inspection of tax officials.
- 341. Annual returns of banks to Auditors; what to contain.
- 342. How tax assessed and apportioned among shareholders.
- 343. Taxes a lien on shares until paid; meantime no transfer nor payment of dividends allowed.

SEC.

- 344. Bank may pay taxes on shares of its stockholders and deduct from dividends.
- 345. Bank failing to make return, Auditor ascertains value of shares; his duty and authority in such case.
- 346. Annual returns of unincorporated banks and bankers; what to be stated.
- 347. How average obtained.
- 348. Who are bankers.
- 349. Powers of Auditor to enforce returns; penalty for default of or false returns.

Section 338. All shares of the stockholders in any bank or banking association, located in this State, whether now or hereafter incorporated or organized under the laws of this State, or of the United States, shall be listed at their true value in money, and taxed in the city, ward, town or incorporated village where such bank is located, and not elsewhere: *Provided*, That the words "true value in money," as used in this Section, shall be so construed as to mean and include all surplus or extra moneys, capital and every species of personal property of value owned or in the possession of any such bank.

Bank stocks.

Civ. '02, § 313.

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Real estate of
banks.Civ. '02, §
314.

Sec. 339. The real estate of any such bank or banking association shall be taxed in the place where the same may be located, the same as the real estate of individuals.

Must keep
list of share-
holders and
depositors.Civ. '02, §
315.

Sec. 340. There shall at all times be kept in the office where the business of such bank or banking association is transacted, a full and correct list of the names and residences of the stockholders therein, and the number of shares held by each; also a list of all persons, parties, corporations or agents who may at any time have any deposit, either personal or general, in such bank, which shall be at all times during business hours open to the inspection of all State and County officers who are or may be authorized to list or assess the value of such shares for taxation.

When return
of sharehold-
ers to be made
to Auditor,
and of real
estate of
bank.Civ. '02, §
316.

Sec. 341. It shall be the duty of the President and Cashier of every such bank or banking association, between the first of January and 20th of February, annually, to make out and return, under oath, to the Auditor of the County in which such bank or banking association may be located, a full statement of the names and residences of the stockholders therein, with the number of shares held by each, and the actual value in money of such shares, together with a description of the real estate owned by said bank.

How tax as-
sessed and ap-
portioned
among share-
holders.Civ. '02, §
317.

Sec. 342. The Auditor of the County in which any such bank or banking association may be located, upon receiving the return provided for in the preceding Section, shall deduct from the actual total value of the shares in any such bank or banking association the appraised value of the real estate owned by such bank or banking association, as the same stands assessed on the duplicate, and the remainder of the total value of such shares shall be entered on the duplicate of the County in the names of the owners thereof in amounts proportioned to the number of shares owned by each, as returned on said sworn statement, and be charged with taxes at the same rate as charged upon the value of other personal property at the place where such bank or banking association is located.

Tax a lien
on shares.Civ. '02, §
318.

Sec. 343. Any taxes assessed on any such shares of stock, or the value thereof, in manner aforesaid, shall be and remain a lien on such shares from the first day of June in each year until such taxes are paid; and, in case of the non-payment of such taxes at the time required by law by any

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shareholder, and after notice received of the County Treasurer of the non-payment of such taxes, it shall be unlawful for the Cashier or other officers of such bank or banking association to transfer, or permit to be transferred, the whole or any portion of said stock until the delinquent taxes thereon, together with the costs and penalties, shall have been paid in full; and no dividend shall be paid on any stock so delinquent so long as such taxes, penalties and costs, or any part thereof, remain due or unpaid.

Sec. 344. It shall be lawful for any such bank or banking association to pay to the Treasurer of the County in which such bank or banking association may be located, the taxes that may be assessed upon its shares, as aforesaid, in the hands of its shareholders, respectively, and deduct the same from any dividends that may be due, or may thereafter become due, on any such shares as aforesaid.

Bank may pay tax of shareholders.

Civ. '02, § 319.

Sec. 345. If any bank or banking association shall fail to make out and furnish to the County Auditor the statement required by Section 341 within the time required herein, it shall be the duty of said Auditor to examine the books of said bank or banking association, also to examine any officer or agent thereof, under oath, together with such other persons as he may deem proper, and make out the statement required by said Section, and enter the value of said shares on the duplicate for taxation. Any bank officer failing to make out and furnish to the County Auditor the statement, or wilfully making a false statement, as herein required, shall be liable to a fine not exceeding one thousand dollars, together with all costs and other expenses incurred by the Auditor, or other proper officer, in obtaining such statement aforesaid.

Proceedings in case bank fail to make return, and penalty for false return.

Civ. '02, § 345.

Sec. 346. All unincorporated banks and bankers shall, annually, between the first of June and twentieth of July, make out and return to the Auditor of the proper County, under oath of the owner or principal officer or manager thereof, a statement, setting forth:

Unincorporated banks and bankers: mode of assessing.

Civ. '02, § 321.

1st. The average amount of notes and bills receivable, discounted, or purchased in the course of business by such unincorporated bank, banker, or bankers, and considered good and collectible.

2d. The average amount of accounts receivable.

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3d. The average amount of cash items in possession or in transit.

4th. The average amount of all kinds of stocks, bonds, or evidences of indebtedness, held as investment, or in any way representing assets.

5th. The average amount of real estate at its assessed value for taxation.

6th. The average amount of all deposits made with them by other parties.

7th. The average amount of accounts payable, exclusive of current deposit accounts.

8th. The average amount of government and other securities, specifying the kinds that are exempt from taxation.

9th. The amount of capital paid in or employed in such banking business, together with the number of shares or proportional interest each shareholder or partner has in such association or partnership.

From the aggregate sum of the first five items above enumerated, the said Auditor shall deduct the aggregate sum of the fifth, sixth, seventh and eighth items, and the remainder thus obtained shall be entered on the duplicate of the County in the name of such bank, banker, or bankers, and taxes thereon shall be assessed and paid, the same as is provided for other property as assessed and taxed in the same city, ward, town or incorporated village.

How average
obtained.

Civ. '02, §
322.

Sec. 347. The average provided for in the preceding Section shall be obtained by adding together the amounts of each item above specified, owned by or standing on the books of such bank, banker, or bankers, on the first day of each month of the year ending the last day of December next preceding the year in which the return is made, and dividing the same by the number of months in the year: *Provided*, That in cases where such bank, banker, or bankers commenced business during the preceding year, the division shall be made by the number of months elapsed after the commencement of such business: *Provided*, That all fractions of a month shall be counted as a month.

Who are
bankers.

Civ. '02, §
323.

Sec. 348. Every company, association, or person not incorporated under any law of this State, or of the United States, for banking purposes, who shall keep an office or

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other place of business, and engage in the business of lending money, receiving money on deposit, buying and selling bullion, bills of exchange, notes, bonds, stocks, or other evidences of indebtedness, with a view to profit, shall be deemed a bank, banker, or bankers, within the meaning of the provisions of this Chapter.

Sec. 349. The Auditor shall have the same powers to enforce correct returns from bank officers and bankers. to examine witnesses and enforce their attendance, and have the same aid of the Court of General Sessions of the County, as is provided by law in cases where individuals fail to list their property for taxation, or are suspected of having made false returns; and in all cases of failure to make returns under this Article, or in case of false return by any unincorporated bank, banker, or bankers, the Auditor shall ascertain the true amount, as near as may be, add fifty per cent. penalty thereto, and charge the party or parties with the taxes on the amount so ascertained by him, with the penalty aforesaid; but in cases of unintentional mistake in making the return, the true amount only shall be charged against the parties, without penalty.

Powers of Auditors to enforce returns: penalty for default of or false returns.

Civ. '02, § 324.

ARTICLE IX.

TAX ON INCOMES; SPECIAL RULES FOR.

SEC.
350. Graduated tax on incomes.
351. How incomes are to be computed.
352. Definitions of terms.
353. When and how tax shall be collected.

SEC.
354. Returns, how and when made.
355. Penalty for failure to make returns.
356. Returns subject to existing laws.

Section 350. There shall be annually assessed, levied and collected upon the gains, gross profits and income received during the preceding calendar year by every citizen of this State, whether such gains, profits or income be derived from any kind of property, rents, interests, dividends, or salaries, or from any profession, trade, employment or vocation carried on in this State, or from any other source whatever, a tax of one per centum on the amount so derived over and

Graduated tax on incomes.

Civ. '02, § 325.

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above \$2,500 and up to \$5,000; one and one-half per centum on \$5,000 and over, up to \$7,500; two per centum on \$7,500 and over, up to \$10,000; two and one-half per centum on \$10,000 and over, up to \$15,000; three per centum on \$15,000 and over; and a like tax shall be assessed, levied and collected annually upon the gains, profits and income from all property owned, and every business, trade or profession carried on in this State by persons residing without this State, excepting such corporations as are hereinafter excepted: *Provided*, That in estimating the gains, profits and income there shall not be included interest upon such bonds or securities of this State, or of the United States, the principal and interest of which are, by the law of their issue, exempt from taxation.

Injunction will not be granted to restrain County Auditor from assessing income tax.—*Fleming v. Power*, 77 S. C., 528; 58 S. E., 480.

Incomes; how
computed.

Civ. '02, §
326.

Sec. 351. In computing incomes, the necessary expenses actually incurred in carrying on any business, occupation or profession, not including remuneration to the taxpayer for personal supervision or the support and maintenance of his or her family, shall be deducted from the gross income or revenue; and the word "income," as used in this Article, shall be deemed and taken to mean "gross profits": *Provided*, That no deduction shall be made or allowed for any amount paid out or contracted for permanent improvements or betterment made to increase the value of any property or estate, or for the increase of capital, capital stock or assets.

"Citizen" and
"person" in-
clude whom?

Civ. '02, §
327.

Sec. 352. The words "citizen" and "person," as used in this Article, shall be deemed to include all natural persons, all copartners and all members of any incorporated association, and to exclude, except as hereinafter included, all corporations duly chartered by the laws of the United States, and of this or any other State.

Tax; when
and how col-
lected.

Civ. '02, §
328.

Sec. 353. The tax herein provided for shall be assessed, levied and collected in the same manner, at the same time, as other taxes, and by the same County officials as are now charged with the assessment, levy and collection of State and County taxes, and shall be paid into the State Treasury as other general State taxes.

Sec. 354. All persons liable for the payment of any of the tax herein provided for shall, at the times now or here-

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after provided by law for the making of returns of personal property, make, under oath, a full and complete list or return, in such form and manner as may be directed by the Comptroller-General, to the Auditor of the County in which they reside; or, in case of non-residents, of the County or Counties where said gains, profits or income arise, of the amount of their income, gains and profits as aforesaid, and the property or investment, if any, upon which the same are computed, and such other particulars as may be required by the Comptroller-General.

Returns; how and when made.

Civ. '02, § 329.

All persons, whether natural or corporations created by charter, acting as guardians, trustees, executors, administrators, agents, receivers, or in any other fiduciary capacity, shall make and render a list or return as aforesaid to the Auditor of the County in which such persons or corporations acting in a fiduciary capacity reside or do business, of the income, gains and profits of any minor or person for whom they act.

Fiduciaries to make returns.

Sec. 355. Any person or corporation failing or refusing to make the list or return required in this Article, or rendering a wilfully false or fraudulent list or return, shall be assessed by the Auditor on account of said income tax, in such amount as appears to him from the best information obtainable by him either by examination of the defaulting taxpayer or any other evidence, that such taxpayer is liable for; and in case of failure or neglect to make said list or return, the said Auditor shall add fifty per centum as a penalty to the amount of tax due; and in case of a wilfully false or fraudulent return or list having been rendered, the Auditor shall add one hundred per centum as a penalty to said tax; the tax and the additions thereto as a penalty to be assessed and collected in the manner provided for in the case of failure to make returns or lists of personal property.

Penalty for failing to make return, or false return.

Civ. '02, § 355.

Sec. 356. In every respect not herein specified, the returns for and the levy and collection of the tax provided in this article shall be subject to all the provisions of law relative to the assessment and collection of taxes on personal property.

Returns subject to existing tax laws.

Civ. '02, § 331.

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ARTICLE X.

CERTAIN CORPORATIONS TO MAKE ANNUAL REPORTS AND
PAY ANNUAL LICENSE FEES.

Sec.

357. Corporations to make annual reports to Comptroller-General; express companies; telegraph and telephone companies; railroads; navigation; water works power and light companies.

358. Foreign corporations.

359. How reports shall be made.

360. Annual license fee.

361. Valuation by Comptroller-General and annual license fee of foreign corporations.

Sec.

362. Reports to be filed with State Board of Assessors.

363. To determine gross receipts.

364. Failure to make statement.

365. Board to notify State Treasurer; Annual license fee.

366. State Treasurer to report to Comptroller-General.

367. Failure to pay license.

368. Exception to this Article.

369. Dissolution of corporation.

This Act construed in *British-American Mortgage Co. v. Jones*, 76 S. C., 218; 56 S. E., 983, and 77 S. C., 443; 58 S. E., 417. In the last cited case it was held constitutional as to foreign corporations, constitutional as to domestic corporations.—*Ware Shoals Mfg. Co. v. Jones*, 78 S. C., 218; 58 S. E., 811.

Corporations
to make an-
nual reports
to Comptrol-
ler-General.

1904, XXIV,
462; 1905,
XXIV, 828.

Section 357. Every corporation organized under the laws of this State to do business for profit, doing business in this State, shall make a report in writing to the Comptroller-General, annually, during the month of February, in such form as the Comptroller-General may prescribe, containing:

1. The name of the company.
2. The location of its principal office.
3. The name and postoffice address of the President, Secretary, Treasurer, Superintendent and General Manager, and of the members of the Board of Directors.
4. The date of the annual election of such officers.
5. The amount of authorized capital stock and par value of each share.
6. The amount of capital stock subscribed, the amount of capital stock issued and outstanding, and the amount of capital stock paid up.
7. The nature and kind of business in which the company is engaged and its place or places of business.
8. The change or changes, if any, in the above particulars made since the last report.

And all railroad companies, express companies, street railway companies, navigation companies, water works companies, power companies, light companies, telephone companies, telegraph companies, parlor, dining and sleeping car companies, exercising the right and privilege of doing business or operating under the authority of any grant of authority

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or permission by this State, whether by direct enactment of the General Assembly, or otherwise, and also foreign, non-resident corporations engaged in like business and exercising similar rights and privileges, shall, in addition to the information above stated, also state in said report to the Comptroller-General. 9. The nature of the company or corporation and under the laws of what State organized.

Express companies.

10. In the case of express companies, the entire receipts, including all sums earned or charged, whether actually received or not, for business done in this State by each agent of such company doing business in this State, giving the name of the office for the fiscal year then next preceding for and on account of such company, including its proportion of gross receipts for business done by such company within the State in connection with other companies; also the total amount of such receipts for business done within the State.

11. In case of telegraph and telephone companies, the entire gross receipts, including all sums earned or charged, whether actually received or not, for the fiscal year the next preceding, from whatever source derived, whether messages, telephone tolls, rentals, or otherwise, for business done within this State, at each office within this State, giving the name of the office and the total receipts of the company for such period in South Carolina from business done within South Carolina.

Telegraph and telephone companies.

12. In the case of each railroad or street railway, situated wholly within the State of South Carolina, the gross earnings from its operation, and in case of each railroad or street railway, located partly within and partly without South Carolina, the gross earnings from the operation of the entire line for the fiscal year next preceding, with the number of miles of lines within South Carolina, and the miles of line without South Carolina.

Railroads.

13. And in the case of navigation companies, water-works companies, power companies, light companies, the entire gross receipts of the company, including all sums earned or charged, whether actually received or not, for business done within this State for the fiscal year then next preceding, including the companies' proportion of gross receipts for business done by it within this State in connection with other companies.

Navigation companies.

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14. Such other facts and information as he may require in the form of return prescribed by him.

Foreign corporations.

Ib., § 2.

Sec. 358. Every corporation organized to do business for profit under the laws of any other State, territory, or country, now or hereafter doing business in this State, and owning or using a part of its capital or plant in this State, shall, in addition to the other requirements contained in the Code of Laws of South Carolina, 1912, and Acts amendatory thereto, during the month of February, annually, make a report in writing to the Comptroller-General, in such form as he may prescribe, containing the same facts as required to be reported by domestic corporations in the preceding Section, and in addition thereto:

15. The name and location of its office or offices in South Carolina. The name and address of the officers or agents of the company in charge of its business in South Carolina.

16. The value of property owned and used by the company in South Carolina, and the value of the property owned and used outside of South Carolina, and where such property is situated, stating the County and township and other tax division where situated within this State.

17. The change or changes, if any, in the above particulars since the last annual report.

How reports shall be made.

Ib., § 3.

Sec. 359. The report required in Sections 357 and 358 shall be signed and sworn to before an officer duly authorized to administer oath, by the President, Vice-President, Secretary, Superintendent or Managing Agent of such company within this State and forwarded to the Comptroller-General. Blanks for making the above report shall be prepared and, on application, furnished any company applying therefor by said Comptroller-General.

Annual license fee.

Ib., § 4.

Sec. 360. Every corporation organized under the laws of this State to do business for profit, other than railroad companies, express companies, street railway companies, navigation companies, water works companies, power companies, light companies, telephone companies, telegraph companies, parlor, dining and sleeping car companies, shall, upon the filing of the report required of them in Section 357, pay to the Comptroller-General, on or before the first day of April in each year, an annual license fee of one-half of one mill upon each dollar paid to the capital stock of said corpora-

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tions, said license fee not to be less than five dollars in any case.

Sec. 361. Upon the filing of the report required of foreign corporations in Section 358, the Comptroller-General shall, from the facts thus reported, and any other facts coming to his knowledge, determine the value of the property of such corporation used within this State by them in the conduct of their business, and shall file a statement of the value so determined, with the license tax payable thereon, and shall charge and collect from such company, in addition to the initial fees provided for in the Code of Laws of South Carolina, 1912, and Acts amendatory thereto, an annual license fee of one-half of one mill upon each dollar of the value of the property of such corporation used within this State in the conduct of its business.

Valuation by
Comptroller-
General and
annual license
fee of foreign
corporations.

Ib., § 5.

Sec. 362. The State Board of Assessors provided for in Section 309 shall, annually, on the first Monday in March, or on such other day as they may be called to meet by the Comptroller-General, meet in the office of the Comptroller-General, and thereupon the Comptroller-General shall lay before the Board the statements and schedules returned to him by each and every railroad company, express company, street railway company, navigation company, waterworks company, power company, light company, telephone company, telegraph company, parlor, dining or sleeping car company, under Section 357 of this Article. The reports made by railroad, telegraph, telephone, express and sleeping car companies to the Railroad Commissioners may be regarded and treated by the Board as reports made to it, and the Board shall have power at any time to call upon such Commissioners for information. The Board may also consider reports filed with the Comptroller-General by express, telegraph, telephone, sleeping car and railroad companies for purposes of taxation.

Reports to
be filed with
Board of As-
sessors.

Ib., § 6.

Sec. 363. The State Board of Assessors shall proceed to ascertain and determine, on or before the first Monday in April, the entire gross receipts of such railroad companies, express companies, street railway companies, navigation companies, waterworks companies, power companies, light companies, telephone companies, telegraph companies, parlor, dining and sleeping car companies, for business done

To deter-
mine gross re-
ceipts.

Ib., § 7.

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within this State for the fiscal year then next preceding, and the amounts ascertained by said Board shall be held and deemed to be gross receipts of such companies for business done within South Carolina for the year under consideration.

Failure to
make state-
ment.

Id., § 8.

Sec. 364. In case of the failure or refusal of any company to make the statement required by law, or furnish the Board any information requested by it, the Board shall inform itself as best it may on matters necessary to be known in order to discharge the duties under this Article.

At any time after the annual meeting of the Board, and before the gross receipts of any company for business done within South Carolina, or the gross earnings from its operation within South Carolina are determined, any company or person interested shall have the right, on written application, to appear before the Board and be heard in the matters of such determination. After the determination of the amount of the gross receipts of any such company or the gross receipts or earnings from its operation within South Carolina, and before the notification to the State Treasurer of such amount, the State Board of Assessors may, on application of any person or company interested, or on its own motion, revise and correct its findings in such manner as seem to it to be just and proper.

Board of As-
sessors to no-
tify State
Treasurer.

Id., § 9.

Sec. 365. That the said State Board of Assessors shall, after ascertaining the gross receipts for business done in South Carolina, or the gross earnings from its operation within South Carolina of any railroad company, express company, street railway company, navigation company, waterworks company, power company, light company, telephone company, telegraph company, parlor, dining and sleeping car company, notify the State Treasurer of the amount thereof on or before the first day of May of each year, and the State Treasurer shall thereupon proceed to charge and collect from such company and such company shall pay to said State Treasurer an annual license fee of three mills on the gross income of such company for business done within South Carolina for the preceding fiscal year, an annual license fee of three mills on such gross income, which license fee shall be paid by such corporation on or before the first day of May in every year.

Annual
license fee.

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Sec. 366. The State Treasurer, upon payment of the annual fees provided for in the preceding Sections 362, 363, 364 and 365 of this Article, shall make out and deliver to the corporation paying the same, a certificate of the compliance by such corporation with the provisions of this Article, and of the payment of the annual fees therein provided for, and the State Treasurer shall report to the Comptroller-General the amount of the annual fees collected under this Article.

State Treasurer to report to Comptroller.

Ib., § 10.

Sec. 367. In case any corporation required to file reports or pay license fees by this Article shall fail or neglect to make such report or pay such fees within the period prescribed in said Sections, respectively, such corporations shall be subject to a penalty of five hundred dollars, and an additional penalty of one hundred dollars per day for each day's omission after the time limited in this Article for filing such report and paying such fee. Such penalty and annual fee or fees may be recovered by an action in the name of the State, and on collection shall be paid into the State Treasury. The Attorney-General, on the request of the Comptroller-General, shall institute such action in the Court of Common Pleas for Richland County, or of any County in the State in which such corporation has an office or place of business, as he prefers. The State Board of Assessors, upon good cause shown, may in their discretion remit the penalty, or any part thereof, prescribed in this Article.

Failure to pay license.

Ib., § 11.

Sec. 368. The provisions of this Article shall not apply to insurance, fraternal, beneficial or mutual protection associations or companies.

Exceptions.

Ib., § 12.

Sec. 369. Every domestic corporation in case of dissolution, revocation of charter, or abandonment of its corporate purposes shall file with the Secretary of State a certificate of such dissolution, revocation of charter or abandonment. In case of dissolution or abandonment by voluntary action of the corporation, such certificate shall be signed by the President, Secretary and a majority of the Board of Directors of the corporation. In case of dissolution or revocation of charter by action of a competent Court, such certificate shall be signed by the Clerk of the Court entering the decree of dissolution or revocation. The fees for making or filing

Dissolution of corporation.

Ib., § 13.

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of such certificate with the Secretary of State shall be taxed in the cost in favor of the party paying the same.

Foreign corporation retiring from business.

Every foreign corporation when it shall retire from business in this State, is hereby required to file with the Secretary of State a certificate to that effect, signed by the President and Secretary of the corporation. The fee for filing certificates of dissolution, revocation of charter, abandonment or retirement of corporations shall be five dollars: *Provided*, That the charter of a corporation which is shown to have been no longer in active existence at the time of this Article may be surrendered on the payment of one dollar. The mere retirement from business of a domestic or foreign corporation without having filed the certificate provided for in this Section, shall not exempt it from the requirements to make their reports and pay fees in accordance with the provisions of this Article.

ARTICLE XI.

PROCEEDINGS ON DEFAULT OF RETURN AND PENALTIES THEREFOR—VALUATION OF PROPERTY FOR TAXATION.

SEC.

370. When no return made, etc., Auditor makes up and returns statement; his powers in such cases, etc.

371. Penalty for failure to list where property escapes taxation; how charged in subsequent year.

372. Persons commencing business after January 1st to report to Auditor; how charged on duplicate.

SEC.

373. Auditor must ascertain names of persons so commencing business.

374. Penalty for not reporting to Auditor.

375. All property must be valued at its true value in money; rule for ascertaining value.

376. How certain articles of personal property to be valued.

Penalty for refusing to make oath or return.

Civ. '02, § 332.

Section 370. If any person shall refuse or neglect to make out and deliver to the Auditor a statement of personal property, as provided herein, or shall refuse or neglect to make and subscribe an oath as to the truth of such statement, or any part thereof, or in case of the sickness or absence of such person, the Auditor shall proceed to ascertain, as near as may be, and make up and return a statement of the personal property, and the value thereof, with which such per-

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son shall be charged for taxation, according to the provisions of this Chapter; and to enable such Auditor to make up such statement, he is authorized to examine any person or persons, under oath, and to ascertain, from general reputation and his own knowledge of facts, the character and value of the personal property of the person thus absent or sick, or refusing or neglecting to list or swear; and said Auditor shall return the lists so made up by him, endorsed, "Refused to List," or "Refused to Swear," or "Absent," or "Sick," as the case may be, and in his return, in tabular form, shall write the same words opposite the names of each of the persons so refusing or neglecting to list or swear, or absent or sick.

Sec. 371. If any person shall fail to list the personal property he is required by law to list in any one year, and the same escapes taxation for that year, the value thereof shall be charged against him for taxation in any subsequent year, with fifty per cent. penalty added thereto, and the taxes and penalty collected as in other cases.

Penalty for failure to make returns.
Civ. '02, § 333.

Sec. 372. Any person, company, or corporation, commencing any business in any County of this State after the first day of January in any year, the capital or personal property employed in which shall not have been previously listed for taxation in said County for such year, shall, within thirty days after commencing such business, report to the Auditor of the County, under oath, the average amount of the capital intended to be employed in such business, from the time of its commencement to the first day of January next ensuing; and upon making satisfactory proof to said Auditor that such capital or property has been regularly listed for taxation in some other County in this State, said Auditor shall file report and proofs in his office, and give to the party a certificate that he or they have complied with the provisions of this Section and are not liable to taxation in his County on such capital or property for the then current fiscal year. But if he or they shall not satisfactorily prove that such capital or property has been previously listed for taxation in some County of this State, said County Auditor shall charge him or them on his duplicate with such proportion of all taxes levied on others upon similar capital or property, at the place of the business, as the time from

Persons beginning business after 1st June.
Civ. '02, § 372.

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the commencement of the business to the ensuing first day of January bears to one year.

Duty of
County Audi-
tors with re-
spect to such
persons.

Civ. '02, §
335.

Sec. 373. It shall be the duty of each County Auditor to ascertain the names of all persons commencing any business in his County after the first day of January, annually, whose capital or property employed in such business was not listed for taxation in his County for the then current fiscal year.

Penalty.

Civ. '02, §
336.

Sec. 374. If any person, company, or corporation, shall commence any business in any County of this State after the first day of January in any year, the capital or property employed in which shall not have been previously listed for taxation in said County, and shall not, within thirty days thereafter, make such report to the Auditor of said County as is required in Section 372 of this Chapter, he or they shall forfeit and pay the sum of one hundred dollars, which shall be collected, by civil action, in the name of the County Commissioners, and paid into the County treasury for the exclusive benefit of the County. And process in such case may issue out of the Court of Common Pleas of the County in which such business was commenced, directed to the proper officer, and be served in any County of this State.

How prop-
erty valued.

Civ. '02, §
337.

Sec. 375. All property shall be valued for taxation at its true value in money, which, in all cases not otherwise specially provided for by law, shall be held to be as follows, to wit: for personal property, the usual selling price on the usual terms of similar property at administrators' or executors' sales, at the place where the return is made; and for real property, the usual selling price on the usual terms of similar property at sales for partition under the order of the Court, at the place where the return is to be made. If there is no usual selling price, then at what is honestly believed could be obtained for the same at a fair sale under the conditions before mentioned. It shall be the duty of each owner of lands, and of any new structures thereon which shall not have been appraised for taxation, to list the same for taxation with the County Auditor of the County in which they may be situate, on or before the twentieth day of February next after the same shall become subject to taxation.

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Sec. 376. The following articles of personal property shall be valued for taxation as follows, to wit: Money, bank bills, and other bills lawfully circulating as money, at the par value thereof; credits, at the amount payable on the face of the contract, instrument, or account, unless the principal be payable at a future time without interest; then, at the sum payable, less the lawful interest thereon, for any term of credit not exceeding one year; contracts for the delivery of specific articles, at the usual selling price of such articles at the time of listing; leasehold estates held for any definite term, at the yearly value thereof to the lessee; annuities, at the yearly value thereof to the owner at the time of listing. All leasehold estates, held on perpetual lease, or for a term certain, renewable forever at the option of the lessee, shall be valued at the full price of the land, and continued to be taxed at such value to the end of the term. When the fee of the soil in any tract or lot of land is in one person, and right to any minerals therein or structures thereon in another, the proceeds of the minerals and the said structures shall be valued and taxed as personal property, to the owners thereof, respectively.

Personal property; how valued; what deemed personal property.

Civ. '02, § 376.

See Sec. 313, ante., as to assessment for taxation of railroad property not previously returned.

ARTICLE XII.

THE COUNTY AUDITOR—APPOINTMENT, TENURE OF OFFICE, AND GENERAL POWERS AND DUTIES.

Sec.

377. County Auditors, how appointed; term of office, etc.

378. Governor may suspend Auditor in certain cases subject to action of Senate; proceedings to be taken in such cases.

379. When office to be kept open to receive returns, and must appoint convenient places for receiving returns, and give notice thereof.

380. Makes annual lists of persons making returns, etc.; form and particulars of same.

Sec.

381. Makes also lists of real estate not previously listed; structures newly built or destroyed, etc.

382. Remarks of Auditor on returns, as to value of property: penalty on property not listed.

383. and 384. Returns of polls; duties of Auditors and School Trustees relating to.

385. To make out description of each tract or lot of land with value of same; how information obtained; Auditor's authority, etc.

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Sec.

- 386. May enter and examine buildings to ascertain value.
- 387. Make list of property exempt.
- 388. Transmits to Comptroller-General and County Commissioners abstracts of property; when sent, and contents.
- 389. The County duplicate lists; when made out; form and particulars of; County Treasurer's duplicate.
- 390. Comptroller-General notifies Auditor of rates for State purposes.
- 391. Determines sums to be levied on property according to rates furnished by Comptroller-General and other authorities.
- 392. Rule of assessment as to fractions in rates.
- 393. How taxes to be entered on duplicate.
- 394. Auditor's duty as to real estate omitted from duplicate or not reported, or omitted from return.
- 395. How Auditor proceeds when return suspected to be evasive, false or incomplete.
- 396. After investigation, Auditor charges taxes and penalties against defaulter.
- 397. How costs of investigation to be paid.
- 398. What costs to be allowed.
- 399. Penalty to be added upon refusal or neglect to list or swear to return.

400. Construction of the five preceding Sections; acts of Auditor not reviewable by Court.

401. Upon failure to make return taxes to be assessed on property as charged for previous year, with penalty added; exceptions.

402. Further time allowed where failure to return was by reason of sickness or absence.

403. How corrections of errors in assessments may be made; and Auditor to keep record of sales and conveyances of real estate; form; fee.

404. Abstracts of duplicates to be sent to Comptroller-General annually; what to contain, etc.

405. Auditor must answer in writing Comptroller-General's inquiries.

406. Auditor may administer oaths.

407. Comptroller-General furnishes forms and extends instructions to Auditors.

408. Visits offices and examines books, etc., of Auditors and Treasurers annually.

409. Dispensers' returns to Auditor to be preserved.

410. Auditor to keep "Abatement Book."

411. Auditor to permit municipal officers to examine his books.

County Auditors; how appointed; term of office, etc.

Civ. '02, § 339.

For what causes and how suspended and removed from office.

Civ. '02, § 340.

Section 377. The Governor is authorized, by and with the advice and consent of the Senate, to appoint for each County in the State a County Auditor, who shall hold his office for a term of two years, and until his successor is appointed and qualified, and to require such bond from said officer as he may deem necessary. Before entering on the duties of his office, the Auditor so appointed must take the oath prescribed by the Constitution, and also the oath in respect to dueling.

Sec. 378. When any County Auditor shall, during a recess of the Senate, be shown, by evidence satisfactory to the Governor, to be guilty of misconduct in office, or crime, or for any reason shall become incapable or legally dis-

qualified to perform its duties, in such case, and in no other, the Governor may suspend such officer, and designate some suitable person to perform, temporarily, the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by the Senate; and such person so designated shall take the oath and give the bond required by law to be taken and given by the person duly appointed to fill such office, and, in such case, it shall be the duty of the Governor, within ten days after the first day of such meeting of the Senate, to report to the Senate such suspension, with the evidence and reason for his action, and the name of the person so designated to perform the duties of such office; and if the Senate shall concur in such suspension, and advise and consent to the removal of such officer, they shall so certify to the Governor, who may thereupon remove such officer, and, by and with the advice and consent of the Senate, appoint another person to such office. But if the Senate shall refuse to concur in such suspension, such officer, so suspended, shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease, and the official salary and emoluments of such officer shall, during such suspension, belong to the person so performing the duties thereof, and not to the officer so suspended: *Provided, however,* That the Governor, in case he shall become satisfied that such suspension was made on insufficient grounds, shall be authorized, at any time before reporting such suspension to the Senate as above provided, to revoke such suspension and reinstate such officer in the performance of the duties of his office.

Sec. 379. It shall be the duty of the County Auditor to receive the returns and make the assessments provided for in this Chapter within the times prescribed by law, and for this purpose his office shall be kept open to receive the returns of taxpayers from January 1st to February 20th in each year.

When office to be kept open to receive returns, etc.

Civ. '02, § 842.

He shall, for the purpose of assessing taxes, attend at a convenient point in each Township or tax district as many days as may be necessary, and for the remainder of the time allowed by law he shall be and remain at the County seat. He, or his assistants, must give thirty days' public

Must appoint convenient places for receiving returns and give notice thereof.

Id., 1009, § 211.

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notice of the days upon which he will be at the places designated.

Property sufficiently assessed as belonging to the "estate of"—"heirs of."—*Koth v. Pallachucola Club*, 79 S. C., 514; 61 S. E., 77.

Make annual lists of persons making returns of real and personal property.

Civ. '02, § 343.

Sec. 380. Each Auditor shall, on or before the first day of March, annually, make out, in tabular form and alphabetical order, a list of the names of the several persons, companies and corporations in whose names any personal or real property shall have been listed, giving the first Christian name of the several persons; and he shall enter separately, in appropriate columns, opposite each name, the aggregate value of the several species of property mentioned herein, making separate lists of the property listed as taxable in incorporated villages, cities and wards, and that listed as taxable out of cities, wards and incorporated villages; all of which columns shall be accurately added up and footed; and at the same time file and preserve in his office statements of property listed by him, or received by him from others.

If the name of the owner of any tract or lot shall be unknown, the word "unknown" shall be entered in the column of names opposite said tract or lot.

Gilliland v. Citadel Square Baptist Church, 33 S. C., 164; 11 S. E., 684.

Makes also lists of real estate not previously listed; structures newly built or destroyed, etc.

Civ. '02, § 344.

Sec. 381. The Auditor shall annually, at the time of taking the list of personal property, also take a list of all real property in the County subject to taxation which shall not have been previously listed; and of all new structures not previously listed, and of all old structures which were destroyed during the previous year; and shall affix a value thereto, with a description of the land or lot on which the same was or is situate, endorse his affidavit thereon that the same is correct, and that the valuations therein stated have been made according to the rules prescribed by this Chapter, and return the same, with the names of the owners, respectively; and if the owner of any such new structure shall be the owner of the land on which it is situate, or of a permanent leasehold estate therein, the Auditor shall add to or deduct from the value of the land or lease, as the case may be, as the same may stand on the duplicate, the value of such structure so returned; but he shall not

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deduct any greater amount for the destruction of any structure than was previously charged for the same on the duplicate.

Sec. 382. It shall be the duty of the Auditor to state, in the column of remarks opposite each taxpayer's name, in the return made by him, any amount which he believes ought to be added to the valuation of the property listed by such taxpayer, his agent, or other person. But he shall not increase the return as made by any taxpayer, or his or her agent, except by authority of the Board of Assessors. It shall also be his duty, at any time after his return, if he ascertain that any personal property in his County has not been listed, to list the same and make return thereof, with the valuation thereof as fixed by the owner or himself, and the name of the owner or person to whom it is taxable; and he shall charge the same on the duplicate for taxation, adding fifty per cent. to the value as returned as penalty.

Remarks of Auditor on returns, as to value of property. Penalty on property not listed.

Civ. '02, § 345.

Auditor has no authority to increase the assessment where it has been fixed by the Board of Assessors and Board of Equalization, even if ordered to do so by the Comptroller-General.—State v. Cromer, 35 S. C., 213; 14 S. E., 493; State v. Boyd, 35 S. C., 233; 14 S. E., 496; State v. Covington, 35 S. C., 245; 14 S. E., 499.

Sec. 383. It shall be the duty of each Auditor to state, in a separate column, the school district in which the taxpayer resides.

Auditor to state School District of taxpayer.

Civ. '02, § 346.

Sec. 384. The County Auditor, when he has completed the tax duplicates, shall report to the County Superintendent of Education, by school districts, the names listed for poll tax and the amount of taxable property when there is a special levy.

Auditor to report to County Superintendent of Education poll tax, etc.

Civ. '02, § 384.

Sec. 385. It shall be the duty of the Auditor to make out, from the maps and descriptions in his possession, and from such other sources of information as shall be in his power, a correct and pertinent description of each tract and lot of real property in his County. When he shall deem it necessary to obtain an accurate description of any separate tract or lot in his County, he may require the owner or occupier thereof to furnish the same, with any title papers he may have in his possession; and if such owner or occupier, upon demand made for the same, shall neglect or refuse to furnish a satisfactory description of such parcel of real

To make out description of each tract or lot of land, with value of same. How information obtained; Auditor's authority, etc.

Civ. '02, § 348.

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property to such Auditor, he may employ a competent surveyor to make out a description of the boundaries and location thereof, and a statement of the quantity of land therein. To the expense of such survey he shall add the tax assessed upon such real property, and it shall be collected by the Treasurer, with such tax, and, when collected, shall be paid, on demand, to the person entitled to the same.

May enter
and examine
buildings to
ascertain
value.

Sec. 386. For the purpose of enabling the Auditor to determine the value of buildings and other improvements, he is authorized to enter and fully examine all buildings and structures (except dwellings), of whatever kind, which are not by law expressly exempted from taxation.

Civ. '02, §
349.

Makes list
of property
exempt.

Sec. 387. The Auditor, at the time of making the assessments of other real estate for taxation, shall enter, in a separate list, pertinent descriptions of the real estate exempt from taxation by law, with the valuation thereof, made by himself, determined by the rules prescribed by law, and designating the owner of each several parcel.

Civ. '02, §
350.

See Sec. 380, Ante provision where owner is unknown.

When tax
books shall
be made up.

Sec. 388. The Auditor shall, on or before the thirtieth day of June, in each year, make up and complete the tax books of his County, as required in the following Section; and shall, on or before that day, make out and transmit to

Civ. '02, §
351.

Transmits
to Comptrol-
ler-General
and County
Commission-
ers' abstracts
of property;
when sent and
contents.

the Comptroller-General and the County Commissioners, an abstract of the property of each district in his County, in which he shall set forth:

1. The number of acres, exclusive of town lots, returned by said Auditor, with such additions as shall have been made thereto.

Civ. '02, §
357.

2. The aggregate value of such real property, other than town lots, as returned by said Auditor, inclusive of such additions as shall have been made thereto under the provisions of this Chapter.

3. The aggregate value of the real property in each town, city and village in his County, as returned by said Auditor, inclusive of such additions as shall have been made thereto.

4. The various kinds and descriptions of personal property returned for taxation.

Sec. 389. The Auditor shall make out, in a book to be prepared for that purpose, in such manner as the Comp-

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troller-General shall prescribe, a complete list or schedule of all taxable property in his County, and the value thereof as equalized, so arranged as that each separate parcel of real property in each district, other than city, village and town property, shall be contained in a line or lines opposite the names of the owners, arranged in numerical or alphabetical order, and so that each lot or parcel of real property in cities, villages and towns shall be contained in a line or lines opposite the names of the owners thereof, respectively, arranged in alphabetical order. And the value of all personal property shall be set down opposite the names of the owners thereof, respectively; and if listed by any other person for and in the name of the owner, the name of such person, and the character in which he acted, shall also be stated in such list, which list or schedule shall be retained in his office, and another made for the County Treasurer, and delivered to him on or before the thirtieth day of September, annually, as his warrant for the collection of the taxes, assessments and penalties charged thereon, each and both of which lists shall be denominated the County Duplicate.

The County Duplicate lists; when made out; form and particulars of; County Treasurer's duplicate.

Civ. '02, § 352.

Sec. 390. The Comptroller-General shall annually give due notice to each County Auditor of the rates per centum authorized by law to be levied for the various State purposes, which rates, or per centum, shall be levied by the County Auditor on the taxable property of the County, and charged on the duplicate with the taxes required to be levied and collected for other purposes.

Comptroller-General notifies Auditor of rates for State purposes.

Civ. '02, § 353.

Sec. 391. Each County Auditor, after receiving from the Comptroller-General, and from such other officers and authorities as shall be legally empowered to determine the rate or amount of taxes to be levied for the various purposes authorized by law, statements of the rates and sums to be levied for the current year, shall forthwith proceed to determine the sums to be levied upon each tract and lot of real property, and upon the amount of personal property, moneys, and credits listed in his County, in the name of each person, company, or corporation, which shall be assessed equally on all real and personal property subject to such taxes, and set down in one or more columns, in such manner and form as the Comptroller-General shall pre-

County Auditor to determine sum to be levied on parcels of property.

Civ. '02, § 354.

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scribe; and in all cases where the whole amount of taxes upon the personal property, moneys, and credits of any person shall not amount to ten cents, the Auditor shall not enter the same upon the duplicate, if such person has no other taxable property.

The rate of taxation not to be in any other than a decimal fraction, and not less than half a mill.

Civ. '02, § 355.

Sec. 392. The County Auditors shall not be required to assess on the taxable property of their Counties, or of any town, city or incorporated village, or school district therein, for any purpose, nor for all purposes added together, any rate of taxation containing or resulting in any fraction other than a decimal fraction, nor in any fraction less than one-half of a mill; but if the sum required to be raised for any or all purposes results in a fraction less than one-half of a mill, such fraction shall be dropped.

Disregarding fraction of one-fourth mill.—*Dickson v. Burckmyer*, 67 S. C., 536; 46 S. E., 343.

Taxes to be entered on a duplicate.

Civ. '02, § 356.

Sec. 393. The County Auditor shall enter the taxes on the duplicate, to be retained in his own office, in such number of columns as the Comptroller-General shall, from time to time, direct; but on the duplicate for the County Treasurer he shall enter the taxes against each parcel of real and personal property, on one or more lines, opposite the name of the owner or owners; and, in all other respects, the Comptroller-General may prescribe forms for County duplicates as may seem to him most conducive to the interest and convenience of the public, and County Auditors shall conform thereto.

What to be done with real estate regularly returned, but omitted from duplicate.

Civ. '02, § 357.

Sec. 394. If the County Auditor shall at any time discover that any real estate, or new structure, duly returned and appraised for taxation, has been omitted from the duplicate, he shall immediately charge the same on the duplicate, with the taxes of the current year, and the simple taxes of each preceding year the same may have escaped taxation. And if the owner of any real estate, or new structure thereon, subject to taxation, has not reported the same for taxation, according to the requirements of this Chapter, and the same has not been appraised for taxation, the Auditor shall, upon discovery thereof, appraise the same, and, upon making return of such appraisement, shall charge the same upon the duplicate, with the taxes of the then current year, and the taxes of each preceding year it may have

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escaped taxation, with twenty per cent. penalty upon such taxes of preceding years. And if any real estate shall have been omitted in any return, the Auditor of the County shall appraise the same immediately for taxation, file such appraisement in his office, and charge the same with the taxes of the current year, and the simple taxes of preceding years it may have escaped taxation.

Sec. 395. If the County Auditor shall suspect, or be informed, that any person or persons, corporation or company, has evaded making a return, or made a false return of his, her, or their personal property for taxation, or have or has not made a full return, or that the valuation returned is less than it should have been, according to the rules prescribed by this Chapter, it shall be his duty, at any time before the settlement with the Treasurer for the year, to notify such party to appear before him at his office, at a time fixed in said notice, together with such other person or persons as said Auditor may desire to examine, and the party, together with any witness called, shall be examined by said Auditor, under oath (which oath said Auditor is authorized to administer), touching the personal property, and the value thereof, of such party, and everything which may tend to evince the true amount such party should have returned for taxation.

What to be done in case of evasion or false return; party may be examined.

Civ. '02, § 358.

The Auditor's jurisdiction is special, and the fact giving it must affirmatively appear, cannot be presumed.—State v. Cromer, 35 S. C., 213; 14 S. E., 493. It does not extend to cases regularly passed upon and determined by the tax boards.—State v. Cromer, 35 S. C., 213; 14 S. E., 493; State v. Covington, 35 S. C., 245; 14 S. E., 499. He has no authority to increase valuation of property where return is not intentionally false.—State v. Boyd, 35 S. C., 233; 14 S. E., 496. And in no event to make such increase without notice to taxpayer, and proper inquiry and testimony as to true value.—Ib. If he increase the assessment fixed by the tax boards he may be compelled by mandamus to restore it to the amount so fixed.—State v. Cromer, 33 S. C., 213; 14 S. E., 493; State v. Covington, 35 S. C., 245; 14 S. E., 499.

Sec. 396. The County Auditor, when he shall deem it necessary, may adjourn the examination provided for in the preceding Section, from time to time; and if he shall find that the party has failed to make any return for taxation, or intentionally made a false return, or intentionally returned his or their property for taxation at less than its fair cash value, he shall determine what amount should have been returned by the party, and add fifty per cent. thereto as penalty, and charge the same, with said penalty, against

Penalty in case it appears that return has been evaded or falsified.

Civ. '02, § 359.

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the party on the duplicate, with the taxes of the current year, and the taxes of each preceding year it may have escaped taxation, with twenty per cent. and penalties upon such taxes of preceding years; but if he shall find the party committed a merely unintentional mistake in any return made, he shall add such amount as he may deem just to such return, and charge the party with the simple taxes thereon.

"Unintentional mistake" does not mean error of judgment; does not apply where property is returned and passed by the tax boards at a valuation less than others might estimate it.—State v. Boyd, 35 S. C., 233; 14 S. E., 496.

How costs
of examina-
tion to be set-
tled.

Civ. '02, §
360.

Sec. 397. If, upon the examination provided for in Section 395, the return made to or by the Auditor shall be found to be correct, the expenses of the examination shall be paid by the County Auditor, out of the County treasury; but if it shall be found that the return, as made, was intentionally false, or that no return was made, the Auditor shall pay the expenses of the examination out of the County treasury and charge the same to the party on the duplicate, in addition to the penalty provided for such cases; and such amount shall be collected, with the taxes of the party, to reimburse the treasury of the County for the expenses paid as aforesaid. But if the return made was unintentionally erroneous, said Auditor shall pay the witnesses' fees and costs of serving the notice out of the County treasury, charge the same on duplicate to the party, and the same shall be collected and paid into the County treasury, as aforesaid.

What expen-
ses to be al-
lowed.

Civ. '02, §
361.

Sec. 398. The expenses to be allowed upon the examination provided for by Section 395 of this Chapter shall be, for serving the notice or notices, the fees allowed to Sheriffs and Constables for serving a summons; and to witnesses, the same fees to witnesses in suits before a Magistrate's Court.

Penalty of
fifty per cent.
to be added
when persons
refuse or neg-
lect to list or
to swear to
return.

Civ. '02, §
362.

Sec. 399. Each County Auditor shall add to the value of all personal property which the owner or other person whose duty it is made to list the same shall have refused or neglected to list, or to the value of which such person shall have refused or neglected to swear, fifty per centum on the value, and charge the same on the duplicate upon which taxes shall be collected and apportioned to the several funds for which taxes are assessed against such owner in proportion to the respective levies.

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Sec. 400. The assessment of property for taxation shall be deemed and held to be a step in the collection of taxes and the last five preceding Sections shall be construed to mean as giving full and complete power to the County Auditor, independent of any right conferred upon County Boards of Assessors or other officers, as to securing a full and complete return of property for taxation in all cases as expressed in said Sections, whether fraudulently or otherwise improperly or incompletely made.

Assessment a part of collection.

Civ. '02, § 363.

Construction of sections of tax law.

Civ. '02, § 363.

The action of said Auditor under said Sections shall not be interfered with by any Court of this State by *mandamus*, summary process or any other proceeding, but the taxpayer shall have the right, and no other, to pay his tax on such return under protest.

Action of Auditor not reviewable by courts.

1902, XXIII, 790.

This Section shall only apply to State, County, municipal and school taxes.

As to payment under protest, see Sec. 457, post.

Sec. 401. Whenever any taxpayer shall fail to make returns to the Auditor of his County within the time prescribed by law, it shall be the duty of the County Auditor to enter on the tax duplicate, against such taxpayer, the property charged to him the previous year, with fifty per cent. penalty added thereto, except in cases of sickness or absence from the County, when the true amount of property only shall be charged.

What to be done when taxpayer fails to make return.

Civ. '02, § 364.

Sec. 402. If any person required to list property for taxation shall have been prevented by sickness or absence from giving to the Auditor the statement or return for taxation required, such person or his agent may, at any time prior to the tenth day of September of the year of the assessment, make out and deliver to the County Auditor a statement of the same, sworn to (which oath the Auditor is authorized to administer), and shall also make oath before said Auditor that he was sick or absent during the whole time when he should have otherwise listed his property for that year; and, if absent, that such absence was not for the purpose of avoiding the listing of his property. The Auditor shall receive the return made by the absent person, and charge such party with taxes on the duplicate according to the return so made to him.

If failure be caused by sickness or absence.

Civ. '02, § 365.

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How returns
are made and
kept correct.Civ. '02, §
366.

Sec. 403. Each County Auditor shall correct annually the valuation of any parcel or lot of real property on which any structures may have been constructed, or on which any structure may have been destroyed, according to the return thereof, made in accordance with the provisions hereof, and assess the tax upon such corrected valuation. Said Auditor shall also correct any errors he may discover in the name of the owner, in the description or quantity of any parcel or lot of real estate, or in any return made to his office. He shall also correct any errors in his duplicate when ordered by the Comptroller-General, but he shall not reduce any assessment of personal property regularly made and returned to his office, nor make any deduction from the valuation of any tract, lot, or parcel of real estate, except upon the written order of the Comptroller-General, which written order shall only be made by the Comptroller-General upon a statement of facts submitted to him in writing; and when any personal or real property has been listed, returned, or entered for taxation in a wrong locality, the County Auditor shall correct the return or entry, and charge such property with the taxes in the locality required by the provisions hereof: *Provided*, That any correction made in the duplicate by the County Auditor shall be entered on both the Auditor's and Treasurer's duplicate, except that, in case of the reduction of any assessment or tax, the Auditor may furnish the Treasurer with a certificate of such reduction: *And provided further*, That each County Auditor shall keep a record of all sales or conveyances of real property made in his County, in which he shall enter, in columns, the names of the purchaser and seller, the quality of land conveyed, the location and price of the same, and therefrom correct the County duplicates annually; and, for the purpose of carrying out this provision, the Clerks of Courts and Registers of Mesne Conveyances of each County are hereby required to have the endorsement of the County Auditor on each and every deed of conveyance for real property that the same is on record in his office, before the same can be placed on record in the offices of said Clerks of Courts or Registers of Mesne Conveyances; and the said County Auditor shall be entitled to

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collect a fee of twenty-five cents, for his own use, for making such entry and endorsement.

Duty to correct tax duplicate.—Smith v. Cox, 88 S. C., 1; 65 S. E., 222.

Sec. 404. Each County Auditor shall, annually, on or before September the thirtieth, make out and transmit, by mail, to the Comptroller-General, a complete abstract of the duplicate of his County, which shall state the aggregate value of taxable property, and the total amount of taxes assessed thereon for that year; and he shall, at the same time, also make out and transmit to the Comptroller-General an abstract of the number and value of each of the enumerated articles of personal property, the value of merchants' and manufacturers' stock, and the value of all other personal property as returned by him and fixed by the Board or Boards of Equalization; but such abstract shall be made out in such form and contain such details as the Comptroller-General may prescribe.

Abstract of the duplicate to be sent annually to the Comptroller-General.

Civ. '02, § 367.

Sec. 405. Each County Auditor shall answer in writing all inquiries propounded to him by the Comptroller-General touching the condition and value of the real estate of his County, and changes made in the valuation thereof in the different towns, villages, cities, wards and other districts; also, as to the valuations of the different classes of personal property for taxation, as compared with their market value, and in relation to any and all matters which the Comptroller-General may deem of interest to the public, or of value to him in the discharge of his duties as Comptroller-General.

County Auditor to answer in writing.

Civ. '02, § 368.

Sec. 406. Each County Auditor is hereby authorized to administer all oaths necessary to be taken by any one in the assessment and return of property for taxation, or necessary in the performance of any duty enjoined upon County Auditors by law.

Auditor may administer oaths.

Civ. '02, § 369.

Sec. 407. The Comptroller-General shall, from time to time, prepare and transmit to the several County Auditors all such forms and instructions as he may deem necessary to carry into effect the provisions of this Chapter, and shall decide all questions which may arise as to the true construction thereof, or in relation to the duty of any officer under the same; and the forms thus transmitted shall be

Comptroller-General furnishes forms and extends instructions to Auditors.

Civ. '02, § 370.

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observed and used by all County, town and municipal officers. The instructions thus given shall be obeyed by, and the decisions thus made shall be binding upon, all County, town and municipal officers.

The order of Comptroller-General to Auditor to increase the assessment of property is without authority.—State v. Cromer, 35 S. C., 213; 14 S. E., 493.

Visits offices
and examines
books, etc., of
Auditors and
Treasurers
annually.

Civ. '02, §
871.

Sec. 408. He shall, as often as once a year, either in person or by some authorized agent of his office, examine all the books, papers and accounts pertaining to the office of the Auditors and the Treasurers of the respective Counties, with a view of protecting the interests of the State, and rendering the said officers such aid or instruction as, in the discharge of their several duties, they may need to make their service the more efficient.

Returns to
Auditors and
Dispensers'
requests to be
preserved five
years.

1898, XXII,
745.

Sec. 409. All original tax returns made to the County Auditors of this State, and all Dispensers' request books, shall be preserved in their respective offices as public records for a period of five years from the date of such returns.

The same
may be de-
stroyed after
five years.

Civ. '02, §
872.

After any original tax returns have been in the office of the County Auditor for a period of five years, or any Dispenser's request books, the same may be destroyed or otherwise disposed of by the Auditor should it be inconvenient to preserve the same in his office, and after such destruction the Auditor's books shall be primary evidence to the contents of said original returns.

County Au-
ditors to keep
an "Abate-
ment Book."

Use of, etc.

Civ. '02, §
873.

Sec. 410. It shall be the duty of the County Auditor to keep as a permanent record in his office, a book to be known as the "Abatement Book" (to be furnished to him by the Comptroller-General), wherein the County Auditor shall enter separately each and every abatement of taxes granted and allowed. Said abatement book shall be so kept as to show in each case, under appropriate columns, the number of the page and the number of the line of the tax duplicate where the item abated appears, the name of the taxpayer, the amount and kind of tax charged on the duplicate, and for what year; the amount abated and date of abatement, in each case, and if the tax be on property, a description of property, also the reason why the abatement was applied for and allowed. After the abatement papers are so entered, they shall be filed in Auditor's office by consecutive numbering of each, and the number on the abatement paper shall be

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entered in the abatement book where the paper is entered, so there may be easy reference thereto. Said abatement book shall be kept by townships and summed up separately for each fiscal year; with a recapitulation showing at end of year the amount of State, County, school, poll and other tax abated during the fiscal year in the whole County.

The abatements allowed in annual settlements between County Auditor and Treasurer shall be according to the record in said abatement book. Record in annual settlement.

Sec. 411. After the County Auditor has completed his assessment it shall be his duty to permit any person authorized to assess or collect municipal taxes for any town or city to inspect and use his books, without charge, for the purpose of taking therefrom the assessed valuation of property within the limits of said city or town. Duty of Auditor to permit his books inspected; when.
Civ. '02, § 874.

ARTICLE XII.

BOARDS OF ASSESSORS AND EQUALIZATION.

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| <p>Sec.</p> <p>412. Tax Districts; how constituted.</p> <p>413. Boards of Assessors and Equalization; how appointed; duties.</p> <p>414. Compensation of township and city boards of assessors.</p> <p>415. Duties devolved on Township Commissioners in certain Counties.</p> <p>416. Compensation of Township Commissioners acting as Assessors.</p> <p>417. Compensation of County Board of Equalization.</p> <p>418. Duty of County Auditor and Township Assessors to seek for property not returned for taxation.</p> <p>419. Annual meeting of Township Assessors; duties.</p> <p>420. Each Township Commissioner to canvass territory.</p> <p>421. Per diem therefor.</p> <p>422. Auditor to prepare alphabetical list of returns.</p> <p>423. Annual meeting of County Board of Equalization.</p> | <p>Sec.</p> <p>424. Valuations by Boards to be adopted by County Auditor.</p> <p>425. Special Boards of Assessors for towns and cities.</p> <p>426. Special Boards of Equalization for City of Charleston.</p> <p>427. Special Board of Assessors and Equalization for City of Columbia.</p> <p>428. Special Boards for Towns of Summerton and Manning.</p> <p>429. Special Boards of Equalization therefor.</p> <p>430. Auditor to conform duplicate to valuations by Boards.</p> <p>431. Assessments for all purposes uniform.</p> <p>432. State Board of Equalization; how constituted.</p> <p>433. Time of meeting and proceedings of State Board.</p> <p>434. Compensation of members of State Board.</p> <p>435. Result of State Board's deliberations to be transmitted to Auditors.</p> |
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Tax Districts.

Civ. '02, §
375.

Section 412. In Counties in which Townships have been laid out, each Township shall be a tax district.

In any County in which Townships have not been laid out, the County Auditor shall divide his County into as many tax districts as may be necessary, and for the purpose of this Section, each ward and parish in the city and County of Charleston shall be considered a tax district, and (1) so much of the County of Charleston as formerly was part of the parishes of Saint James Santee and Christ Church (except Sullivan's Island), and (2) Sullivan's Island, and (3) so much of said County as was formerly a part of St. Andrew's Parish, and (4) that part of said County outside of the city of Charleston and part of the Parish of St. Philip, shall, severally, be tax districts of said County.

This Board of Assessors has *quasi* judicial authority, and when its action as to assessments is concurred in by the County Board of Equalization it is *res adjudicata* and final and conclusive, except in case of mistake or fraud.—State v. Cromer, 35 S. C., 213; 14 S. E., 493; State v. Covington, 35 S. C., 245; 14 S. E., 499.

The assess-
ment of prop-
erty for taxa-
tion.

Civ. '02, §
376.

Township
Boards of As-
sessors, etc.

Special pro-
visions Horry,
Newberry
and Pickens.

1908, XXV,
1190.

Sec. 413. Except in the Counties of Barnwell, Beaufort, Charleston, Cherokee, Chester, Kershaw and Hampton, the duties relative to the valuation, assessment and return of property for taxation are hereby devolved upon Township Boards of Assessors, Special Boards of Assessors for cities and towns, as now provided by law, and the County Board of Equalization, which said Township and Special Boards shall be appointed every two years by the Governor, upon the recommendation of the members of the General Assembly from the respective Counties, or a majority of them, and their office shall be co-terminal with that of the Governor appointing them, and until their successors shall be appointed and qualified, and the Chairman of each of said Boards shall be, *ex officio*, a member of the County Board of Equalization: *Provided*, That in Horry, Newberry and Pickens Counties, the Township and town Boards shall be appointed by the Auditor: *Provided*, That in the County of Hampton the Township Board of Assessors shall consist of three in each Township, who shall hold their offices for two years and until their successors shall be appointed and qualified. The Chairman of each of the Township Boards of Assessors, who shall be selected out of their number by the members of each of the said Township Boards, shall

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constitute the Boards of Equalization for the said County, who shall, with the assistance of the Auditor of said County, perform the duties of equalization now provided by the general law of this State.

Sec. 414. That the Township Assessors and City Boards of Assessors of the various Counties and towns and cities of the State shall each receive as a compensation for their service, the sum of two dollars per day for the time actually employed, not to exceed three days in any one year, except in those years when real estate is to be assessed, when the number of days charged for shall not exceed five: *Provided*, That in those Townships or tax districts in which is situated an incorporated town or city of one thousand and less than five thousand inhabitants they shall be paid for not exceeding five days, and in those Townships or tax districts in which there is an incorporated town or city or manufacturing community of four thousand and less than ten thousand they shall be paid for not exceeding ten days, and in those townships or tax districts in which there is an incorporated town or city of ten thousand inhabitants or more they shall be paid for not exceeding thirty days: *Provided, further*, That no per diem shall be paid unless accompanied by the affidavit of such member giving the number of days actually employed and by the certificate of the County Auditor to the effect that such member has fully performed all the duties required by this Article and the chairman of all Townships: *Provided, further*, That in Hampton County the said Board of Township Assessors shall each receive as compensation for his services, in the performance of the duties devolving upon them as such assessors, two dollars per day, without mileage, for each day actually employed in the performance of their duties, not exceeding three days in each year; and the members of the said Board of Equalization shall each receive three dollars per day, for each day employed in the performance of their duties as such Equalization Board, for not exceeding three days in each year, in addition to the time employed with the Board of Assessors: *Provided*, That no per diem of any member of said Board shall be paid unless a statement of the claim shall be presented, showing the number of days actually employed, accompanied by the affidavit

Compensation of Township and City Boards of Assessors.

1902, XXIII, 1085.

Compensation.

1908, XXV, 1190.

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of the claimant to the effect that such number of days have been employed in the performance of their duties; and by a certificate of the County Auditor to the same effect.

Township
Commission-
ers.

Civ. '02, §
377: 1902,
XXIII, 1084;
1908, XXIV,
27.

Sec. 415. In the Counties of Barnwell, Beaufort, Charleston, Cherokee, Chester and Kershaw the duties of the Township Boards of Assessors are devolved upon the Township Boards of Commissioners, who, upon taking the oath prescribed by the Constitution (Article III, Section 26), shall meet at some convenient place in their respective districts for the purpose of assessing the value of real and personal estate in their tax districts for taxation. The Chairmen of the Township Boards of Commissioners shall be *ex officio* members of the County Boards of Equalization in said Counties.

Compensa-
tion of town-
ship assess-
ors.

1909, XXVI,
35.

Sec. 416. Each member of the Township Board of Commissioners shall receive for his services in performing the duties devolved upon him by Section 415 two dollars for each day actually employed, not exceeding three days: *Provided*, That in those Townships or tax districts in which is situated an incorporated town or city of one thousand and less than five thousand inhabitants they shall be paid for not exceeding five days; and in those Townships or tax districts in which there is an incorporated city or town of five thousand and less than ten thousand inhabitants they shall be paid for not exceeding ten days; and in those Townships or tax districts in which there is an incorporated town or city of ten thousand inhabitants or more they shall be paid for not exceeding twenty days: *Provided, further*, That no per diem shall be paid unless accompanied by the affidavit of such member, giving the number of days actually employed, and by the certificate of the County Auditor to the effect that such member has fully performed all the duties required by this Article, and the Chairmen of said Township Boards of Commissioners when acting as members of the County Board of Equalization shall receive as compensation for their services three dollars per day for each day actually employed in performing such duties, and mileage at five cents per mile each way for travel actually performed, to be paid by the County Treasurer upon the warrant of the County Board of Commissioners on the certificate of the County Auditor.

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Sec. 417. The members of the County Board of Equalization of the various Counties of this State shall each receive as a compensation for their service the sum of two dollars per day for the time actually engaged and five cents per mile for necessary travel, the number of days charged for in any one year not exceeding five, except in those years when real estate is to be assessed, when the number of days charged for shall not exceed ten.

Compensation of County Board of Equalization.

1902, XXIII, 1085.

Sec. 418. It shall be the duty of the County Auditor and the Township Board of Assessors, on or before the first Tuesday of March in each year, to diligently seek for and discover all property, both real and personal, in his County subject to taxation and not previously returned or listed with him; and it shall be his duty to list the same for taxation, giving the valuation thereof, with the name of the owner or person to whom it is taxable.

Duty of County Auditor and Township Assessors to seek for property not returned for taxation.

Civ. '02, § 379.

It shall be the duty of the County Auditor, on or before the first Tuesday of March in each year, to lay before the Township Boards of Assessors and the Special Boards of Assessors the returns of all property, both real and personal, made to him, together with a list of all property, both real and personal, which he can discover has not been previously returned or listed for taxation, as required by law, stating in the columns of remarks upon each return and list what he believes ought to be the valuation of the property returned or listed.

County Auditor to lay before Township Assessors list of property discovered by him as not returned.

Ib., § 8.

Sec. 419. The Township Boards of Assessors and Special Board of Assessors shall meet annually, on the first Tuesday in March, or as soon thereafter as practicable, at some convenient place or places for the purpose of performing the duties devolved upon them. It shall be their duty to carefully consider the returns and lists laid before them by the County Auditor, and if necessary to compare the same with the tax returns and tax duplicate for the previous year or years. They shall diligently seek for and discover all property, both real and personal, in their respective tax districts not previously returned by the owner or agents thereof or not listed for taxation by the County Auditor, and thereupon it shall be their duty to list the same for taxation in the name of the owner or person to whom it is taxable. It shall thereupon be their further duty to fairly and

Annual meeting of Township Boards of Commissioners and Assessors; duties.

Civ. '02, § 380.

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Real estate;
when as-
sessed.

impartially assess the value of all property, both real and personal, in their respective tax districts, entering upon their returns and lists furnished them. And they shall have the right in performing their duties hereunder to increase or to lower the valuation of any property, real or personal, as fixed by the County Auditor or as returned by any person; and it shall not be deemed material whether the return so increased was intentionally or unintentionally false, or whether the property whose value is so raised was intentionally or unintentionally returned at less than its fair cash value by the County Auditor and upon the lists made out by them, the valuation fixed by them; but they shall not reduce the aggregate value of real and personal property below the aggregate value thereof as returned to the County Auditor, said returns and lists, with said valuations, to be by them laid before the County Auditor on or before the third Tuesday of March in each year: *Provided, however,* That real estate shall be valued and assessed by said Boards only in those years when real estate is by law required to be returned, except that the Board may, in any year, value and assess any real estate and improvements thereon which they may ascertain or discover have not previously been returned or assessed for taxation. Whenever the valuation and assessment of any property is fixed by said Boards at a sum greater by one hundred dollars or more than the amount returned by the owner or his agent, or whenever any property is valued and assessed for taxation which has not been previously returned or assessed, it shall be the duty of the County Auditor, on or before the fourth Monday in March, of the year in which the valuation and assessment is made, to give to the owners or agent of such property written notice thereof, which notice may be served upon such owner or his agent personally, or by mailing the same to such person or his agent at his last known place of residence, and such owner or his agent, if he objects to such valuation and assessment, shall have the right of appeal to the County Board of Commissioners sitting on the County Board of Equalization, which appeal shall be heard by said County Board. The account of the County Auditor for the necessary stationery and postage to enable him to give the notice herein required shall be a valid claim against the County

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and shall be paid as other County claims are paid. Nothing in this Article contained shall be construed as interfering with the duty of the County Auditor of adding fifty per cent. to the value of personal property as a penalty, as provided in Sections 382, 399, 401 and 394, nor with the duties of the County Auditor prescribed in Section 395.

Sec. 420. Each Chairman, or his agent, of the Boards of Assessors of the Townships of the State shall, under the direction and supervision of the County Auditor, canvass the territory within which his Board is charged with the assessment of property for taxation, immediately after the expiration of the time limited for returning property for taxation, for the purpose of discovering and having placed upon the tax books all taxable property of every description, and polls, which has not been returned to the County Auditor, and shall make a sworn written report of all such property and polls to the County Auditor. The said Chairman, or his agent, shall receive from the County a per diem of two dollars for each day while actually engaged in making such canvass for not more than five days in any one year: *Provided*, Said return of polls shall be in lieu of return of polls now required by law to be made by School Trustees.

Each Township Commissioner to canvass territory.

1905, XXIV, 901.

Sec. 421. In those Townships or tax districts in which there is an incorporated city or town of four thousand inhabitants and more, said Chairman, or his agent, shall receive from the County a per diem of two dollars for each day while actually engaged in making such canvass, for not more than ten days: *Provided, further*, That no per diem shall be paid unless accompanied by the affidavit of such Chairman, or his agent, giving the number of days actually employed, and by the certificate of the County Auditor to the effect that such Chairman, or his agent, has fully performed the duties required by this and the preceding Section, and is entitled to said per diem.

Per diem.

Sec. 422. It shall be the duty of the County Auditor, immediately after the expiration of the time limited for returning property, to prepare for each Township or tax district in his County an alphabetical list of all persons who have made returns of property and polls for taxation, for

Alphabetical list of persons.

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the use of the Chairman of the Board of Assessors in making the canvass herein provided for.

When County Boards of Equalization shall meet.

Civ. '02, § 381.

Duty of County Boards of Equalization.

Sec. 423. The County Boards of Equalization shall meet on the fourth Tuesday in March in each year, and at such other times as the Chairman or a majority of the Board shall direct, at the office of the County Auditor, who shall act as their clerk.

The County Auditor shall thereupon lay before them the returns of property made to him and all property listed by him and by the Board of Township Assessors and Special Boards of Assessors. Each member, having taken an oath, before some officer duly qualified to administer the same, fairly and impartially to equalize the value of the real and personal property of their County according to the provisions of law, the Board shall immediately proceed to equalize the valuations fixed by the Board of Township Assessors and Special Board of Assessors, so that each piece of property shall be entered on the tax list at its true value. They shall hear all grievances and appeals from the valuations and assessments fixed by the Township Boards of Assessors and Special Boards of Assessors and act upon the same. For the purpose of performing their duties said Board shall also observe the following rules:

Rules to govern County Boards of Equalization.

May raise the valuation of property assessed too low.

May reduce the valuation of property assessed too high.

Aggregate value not to be below aggregate value fixed by Auditor.

First. They shall raise the valuation of such tracts and lots of real property, or articles of personal property, as in their opinion have been returned or assessed below their true value to such price or sum as they may believe to be the true value thereof, and due notice shall be given to the owner or agent of such property.

Second. They shall reduce the valuation of such tracts and lots of real property, and articles of personal property, as in their opinion have been returned or assessed above their value as compared with the average valuation of the property of such County, having due regard to the relative situation, quality of soil, improvement and natural and artificial advantages possessed by each tract or lot of real property.

Third. They shall not reduce the aggregate value of real and personal property below the aggregate value thereof as returned to the County Auditor. The Auditor shall keep an

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accurate journal or record of the proceedings and orders of said Board.

Any person whose property has been or may be assessed above its true value who cannot secure relief from said Board shall have the right to appeal to the Comptroller-General, to whom shall be forwarded all testimony relative to each alleged grievance and who shall act thereupon.

Right of appeal to Comptroller-General.

The decision of the County Board can only be reviewed on this appeal.—
State v. Cromer, 35 S. C., 218; 14 S. E., 493; State v. Covington, 35 S. C., 245; 14 S. E., 499.

Sec. 424. The said returns and lists of taxable property, with the valuations fixed as hereinbefore provided, shall thereupon be adopted by the County Auditor for the purposes of taxation for the ensuing year, and shall be permanently entered of record by him upon the tax books of his County.

Valuations thus made to be adopted by Auditor.

Civ. '02, § 382.

Sec. 425. The Governor shall appoint, upon recommendation of the Senator and members of the House of Representatives from the respective Counties, three discreet electors in each incorporated city and town of this State having a population of not less than five hundred inhabitants, who shall be known as the Board of Assessors of such cities and towns, whose terms of office shall be co-terminal with that of the Governor by whom such Assessors shall have been appointed, and, until their successors shall have been appointed and qualified. The duties heretofore devolved upon the Township Board of Commissioners as Assessors shall be devolved upon the Board of Assessors herein provided for within the limits of their respective cities and towns: *Provided*, That nothing contained in this Section shall be construed as affecting the Special Board of Assessors in the cities of Charleston and Columbia.

Board of Assessors; how appointed in cities and towns.

Civ. '02, § 383.

Sec. 426. There shall be a special board for the equalization of real and personal property, moneys and credits in the city of Charleston, to be composed of the County Auditor and six citizens of said city, to be elected by the City Council of Charleston, and subject to removal by the said City Council, which Board shall meet annually at the County Auditor's office on the first Tuesday in March, and shall have power to equalize the value of the real and personal property, moneys and credits within said city, and

Special Board of Equalization for city of Charleston.

Civ. '02, § 384; 1910, XXVI, 626.

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Powers of.

Duty of
County Auditor.

shall be governed by the rules, provisions and limitations prescribed for the government of the annual County Boards of Equalization: *Provided, however,* That if for any reason the Special Board of Equalization of real and personal property, moneys and credits in the city of Charleston shall consider it advisable to have a reassessment of real estate in said city in any year, said Board shall order such reassessment to be made by the Board of Assessors for the city of Charleston, and by advertisement in some newspaper published in the city of Charleston, once a week for four weeks previous to the first day of January in any year, order and require all persons in said city to make returns of real estate, as well as personal property, in such year in the manner provided by law, but said Board shall not continue in session for more than two weeks in one year; and it shall be the duty of the County Auditor, and he is hereby required, on or before the twentieth day of March, in each and every year, to furnish to the municipal authorities, for the purpose of municipal taxation, an abstract of the real and personal property in the city of Charleston, with the assessment of valuation thereon, according to the said County Auditor's books. And in order that the said County Auditor may comply with this requirement, the City Assessor of the city of Charleston, his deputies and clerks, shall attend and assist the County Auditor in his office, and under his direction, control and supervision, between the first day of January and the twentieth day of March, shall receive and enter the tax returns for all property within the County of Charleston, that is within the corporate limits of the city of Charleston, and make an abstract with the assessment of valuation thereon, according to the County Auditor's books, which abstract shall be certified by the County Auditor as a complete assessment of the property assessed, and such abstract so made and certified shall be deemed official, and shall be available as a basis for the assessment of such taxes for municipal purposes on or before the twentieth day of March in each year.

Special Board
for the City
of Columbia.Civ. '02, §
385.

Sec. 427. There shall be a Special Board of Assessors for the city of Columbia, to consist of three discreet residents of said city, to be appointed annually by the City Council

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of the city of Columbia on or before the first day of January in each and every year, who shall have all the duties, powers, privileges and compensation as are now devolved by law upon the Board of Township Assessors for Columbia Township so far as said duties, powers and privileges relate to the assessment and valuation of property in the city of Columbia and the duties, powers and privileges of the said Board of Township Assessors for Columbia Township so far as they relate to the assessment and valuation of property shall be confined to so much of Columbia Township as lies outside of the limits of the city of Columbia.

Sec. 428. There shall be a special Board of Assessors for the town of Manning and the town of Summerton, respectively, to consist of three discreet residents and freeholders of said towns, to be appointed annually by the Town Council of the town of Manning and the town of Summerton, respectively, on or before the first day of May, 1908, in each and every year, who shall have all the duties, powers, privileges and compensation as are now devolved by law upon the Board of Township Assessors for Manning, Friendship and Concord Townships, so far as said duties, powers and privileges relate to the assessment and valuation of property in the town of Manning and the town of Summerton, respectively, and the duties, powers and privileges of the said Board of Township Assessors for Manning, Friendship and Concord Townships, so far as they relate to the assessments and valuation of property, shall be confined to so much of Manning, Friendship and Concord Townships as lies outside of the limits of the towns of Manning and Summerton.

Special Board
of Assessors
for towns of
Manning and
Summerton.

1908, XXV,
1126.

Sec. 429. There shall be a Special Town Board of Equalization for the towns of Manning and of Summerton, respectively, composed of three resident freeholders, to be appointed by the Town Council of the town of Manning and of Summerton, respectively. Their duties shall be the same, as affecting the property in said towns, and the Special Board of Assessors for said town of Manning and of Summerton (as above provided), as provided in Section 423 for County Board of Equalization. There may be appeals from the Special Town Board of Assessors to the Special Town Board of Equalization, and the decision of

Special Town
Board of
Equalization
for towns of
Manning and
Summerton.

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the latter shall be final as affecting the property of the town of Manning and of the town of Summerton, and the Chairman of said Special Boards of Equalization shall report the result of both Boards as to the assessment of all property in the town of Manning and the town of Summerton to the County Auditor.

County Auditor to add to or deduct from valuation of property, as directed by the Board.

Civ. '02, § 386.

Sec. 430. The County Auditor shall add to, or deduct from, the value of real estate or personal property such per centum, in villages, towns, wards, blocks, or other districts, as may be ordered by the Board of Equalization of the city or County, as the case may be, on the duplicate, distributing the same pro rata to each owner, and shall add to, or deduct from, the valuation of the real or personal property of individuals, companies, or corporations, such sum or sums as may be ordered by either of said Boards.

Auditor cannot add to the valuation of property of corporations where same has been approved by the Board.—State v. Cromer, 35 S. C., 213; 14 S. E., 493; State v. Covington, 35 S. C., 245; 14 S. E., 499.

Uniform assessment.

Civ. '02, § 387.

Sec. 431. Taxes for Township, school, municipal and all other purposes provided for or allowed by law shall be levied on the same assessment, which shall be that made for State taxes.

Municipal authorities to copy assessment from Auditor's books.

All persons charged with the assessment or collection of taxes for municipal purposes may copy from the County Auditor's books the assessment of valuation thereon found, and may use the same as the basis for the assessment of taxes for municipal purposes: *Provided*, That nothing herein contained shall prevent the municipal authorities from assessing and collecting taxes upon property not upon the Auditor's book.

State Board of Equalization; how constituted, etc.

Civ. '02, § 388.

Sec. 432. At the first meeting of said Board they shall elect one of their number who shall be a member of the State Board of Equalization and who shall perform all the functions of said office as now provided by law. The member so elected must file with the Comptroller-General a certificate of his election on or before the meeting of the State Board.

The Comptroller-General shall submit the said certificates of election and the abstracts of real property transmitted to him by the County Auditors to the State Board when it con-

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venes, and shall transmit its decision to the County Auditors, who shall forthwith conform their action thereto.

Sec. 433. The said Board shall meet at Columbia on the second Tuesday in July, one thousand eight hundred and ninety-four, and on the same day in every fourth year thereafter. Each member shall take an oath or affirmation that he will, to the best of his knowledge and ability, so far as the duty devolves on him, equalize the valuation of real property among the several Counties, towns, cities and villages in this State according to the rules prescribed by this Chapter for valuing and equalizing the value of real property; and having received from the Comptroller-General the abstracts of real property transmitted to him by the several County Auditors, said Board shall proceed to equalize the same among the several towns, cities, villages and Counties in this State in the manner hereinafter prescribed.

Time of meeting and proceedings of State Board.

Civ. '02, § 889.

1st. They shall add to the aggregate value of the real property of every County which they shall believe to be valued below its true value in money such per centum in each case as will raise the same to its true value in money.

2d. They shall deduct from the aggregate valuation of the real property of every County which they shall believe to be valued above its true value in money such per centum in each case as will reduce the same to its true value in money.

3d. If they believe that right and justice require the valuation of the real property of any town, city or village in any County, or of the real property of such County not in towns, cities or villages, to be raised or to be reduced, without raising or reducing the other real property of such County, or without raising or reducing it in the same ratio, they may in every such case, add to or take from the valuation of property in any one or more of such towns, cities or villages, or of property not in towns, cities or villages, such per centum as they believe will raise or reduce the same to its true value in money. The Board shall keep a full account of their proceedings and orders.

Sec. 434. Each member of the Board shall receive three dollars per day for each day he shall be employed in performing the duties enjoined upon him, and five cents per mile for traveling to, and the same for returning from, the

Compensation of members.

Civ. '02, § 484.

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seat of government, to be computed by the most usually traveled route, and paid out of the State Treasury, on the warrant of the Comptroller-General.

Comptroller-General to transmit result of their deliberations to County Auditors.

Civ. '02, § 435.

Sec. 435. When the State Board of Equalization shall have completed their equalization of real property among the several Counties, the Comptroller-General shall transmit to each County Auditor a statement of the per centum to be added to, or deducted from, the valuation of the real property of his County, specifying the per centum added to, or deducted from, the valuation of the real property in each of the several towns, villages, and cities, and of real property not in towns, villages, or cities, in each case an equal per centum shall not have been added to, or deducted from each; and the County Auditor shall forthwith proceed to add to, or deduct from, each tract or lot in his County the required per centum on the valuation thereof as it stands, after having been equalized by the County Board of Equalization, adding any fraction over fifty cents, and deducting any fraction less than fifty cents, so that the valuation of any tract or lot shall not contain any fraction of a dollar, and charge the same with taxes upon such equalized value.

CHAPTER XV.

The Collection of Taxes.

- ARTICLE 1. The County Treasurer—appointment, tenure of office, compensation, etc.
- ARTICLE 2. Powers and Duties of County Treasurer and general provisions concerning the collection of taxes.
- ARTICLE 3. Remedies and proceedings for relief of taxpayers.
- ARTICLE 4. Enforced collection of delinquent taxes.
- ARTICLE 5. Annual settlement of County Treasurers.

ARTICLE I.

THE COUNTY TREASURER—APPOINTMENT, TENURE OF OFFICE, COMPENSATION, &C.

SEC.	SEC.
436. Appointment and qualification : bond.	438. Treasurers of Charleston and Berkeley Counties ; may appoint deputies ; duties and compensation.
437. Suspension and removal from office.	

Section 436. The Governor is authorized by, and with the advice and consent of, the Senate, to appoint for each County in the State a County Treasurer, who shall hold office for two years and until his successor is appointed and qualified. Before entering upon the duties of his office he must take and subscribe the oath of office prescribed by the Constitution, and also the oath with respect to duelling. The Governor may require from said officer such bond as he may deem necessary, but the bond of the County Treasurer of Charleston County shall not be less than fifty thousand dollars; the bonds of the County Treasurers of the Counties of Richland and Beaufort, respectively, not less than thirty thousand dollars; the County Treasurers of Saluda and Dorchester, respectively, ten thousand dollars; and the County Treasurer of Berkeley County, twelve thou-

County Treasurer; how appointed.
Civ. '02, § 392; 1904, XXIV, 425; 1907, XXV, 629, 633; 1908, XXV, 1031.

Bond.

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sand dollars; the County Treasurer of Bamberg County, fifteen thousand dollars; the County Treasurer of Georgetown County, twenty-five thousand dollars; and the County Treasurer of Horry County, thirty thousand dollars; and the bonds of the County Treasurers of the other Counties, respectively, not less than twenty thousand dollars.

Liability on bond.—*Greenville Co. v. Runion*, 9 S. C., 1; *State v. Teague* 6 S. C., 149; *State v. Baldwin*, 14 S. C., 139; *York County v. Watson*, 15 S. C., 9; *Aiken Co. v. Murray*, 35 S. C., 508; 14 S. E., 954.

Suspension
and removal
from office.

Civ. '02, §
393.

Sec. 437. County Treasurers shall be subject to suspension and removal from office by the Governor, upon the same grounds and in the same manner as prescribed in Section 378 in relation to County Auditors, and all the provisions of said Section are hereby made applicable in cases of suspension and removal of County Treasurers.

Treasurers of
Charleston
and Berkeley
Counties may
appoint deputies;
duties
and compensation.

Civ. '02, §
394.

Sec. 438. The Treasurer of Charleston County may appoint one deputy and the Treasurer of Berkeley County three deputies, whose duty it shall be to assist in the collection of taxes in said Counties, respectively. Each deputy shall receive as compensation for his services the same commissions as are paid for collection of taxes to the County Treasurer, but the total amount paid to such deputy in any current year shall not exceed five hundred dollars. Their duties shall be confined to the collection of simple taxes and shall not include penalties attached thereto. They shall give such bond for the faithful performance of their duties as said Treasurers, respectively, shall require.

ARTICLE II.

POWERS AND DUTIES OF COUNTY TREASURER, AND GENERAL PROVISIONS CONCERNING THE COLLECTION OF TAXES.

Sec.

- 439. When office to be kept open.
- 440. Must attend at convenient places to collect taxes, etc.
- 441. When taxes payable; receipts; pay certificates of jurors and witnesses receivable for.
- 442. Apportionment when property transferred after assessment.

- 443. General cash account of County Treasurer; entries therein. Accounts with school districts; entries therein.
- 444. When and how money forwarded to State Treasurer; receipts therefor; duty in respect to; penalty.

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Sec.
 445. Must report collections of funds to County Board of Commissioners and County Superintendent of Education.
 446. Monthly report to Comptroller-General.
 447. To deposit money at interest.
 448. Annual report to Superintendent of Education.
 449. Annual report to Court of Sessions; publication of.
 450. Delinquent taxes; penalty; execution.

Sec.
 451. Mortgagee may pay tax and include same in mortgage debt.
 452. Comptroller-General may remit penalty in certain cases.
 453. Property liable to distress and sale for delinquent taxes.
 454. Treasurer may proceed by suit as well as by distress warrant to collect chattel tax.
 455. Delinquent chattel tax; how enforced against property in another County.

Section 439. The County Treasurer shall keep his office open for the receipt of taxes during the times fixed from time to time by law. When office to be kept open.
Civ. '02, § 396.

Sec. 440. The County Treasurers of the respective Counties may attend at certain safe and convenient places for the purpose of collecting taxes. They shall give twenty days' public notice of the days when they will be at the places designated: *Provided*, That the provisions of this Section shall not apply to the Counties of Chester, Georgetown, Sumter, Spartanburg and York: *Provided, further*, That in the County of Dorchester, in addition to the provisions already provided for the collection of taxes, the County Treasurer shall give twenty days' public notice of the time and place he shall attend for the collection of said taxes at the following places in said County, to wit: Reevesville, Grover, Harleyville, Ridgeville, Givhans, Delmars, and Summerville. County Treasurer may attend convenient places to collect tax.
Civ. '02, § 397: 1905, XXIV, 833.
Special provision as to Dorchester County regarding taxes.
1906, XXV, 44.

Sec. 441. All taxes shall be due and payable between the 15th day of October and the 31st day of December after their assessment in each and every year; they shall be payable in the following kinds of funds, and no other: Gold and silver coin, United States currency, national bank notes and coupons, which shall become due and payable during the current year on the consolidated bonds known as Brown bonds, and the bonds of this State known as Blue bonds, and any other State bonds which may be issued by authority of an Act of the General Assembly the coupons of which are by such Act made receivable for taxes: *Provided, however*, That jury certificates and per diem of State witnesses in the Circuit Court and all County claims which have been Taxes payable annually; how payable.
Civ. '02, § 398: 1909, XXVI, 74.

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approved and certificates issued by the County Board of Commissioners, shall be receivable for County taxes, not including school taxes; and the several County Treasurers under the direction and supervision of the Comptroller-General shall collect the same, in the manner prescribed by law, and give receipts therefor to the several parties paying the same, in which the real estate paid on shall be briefly described and the value of the personal property paid on shall be stated, together with the time such taxes are paid, the amount of the same, and the Township wherein such property is located. Immediately upon the receipt of the tax duplicate for the year from the County Auditor, the County Treasurer shall cause a notice to be inserted in one County newspaper in his County, stating the rate per centum of the levy for State purposes and the rate per centum for all other purposes on the duplicates for the current fiscal year; and if any special levies have been made on the property of the school or other district not affecting an entire County, the total rate of levies shall also be stated in such notice. Said County Treasurers are forbidden to collect any other tax whatsoever levied for the fiscal year unless expressly authorized to do so, except the taxes authorized by law to meet the interest and to retire the bonds issued by Counties and Townships in aid of railroads, and bonds voted by Townships in aid of railroads where the railroads have been completed through said Townships, as taxes voted by towns or Counties or assessed upon Townships as subscriptions to railroads, and taxes to build fences under statutes authorizing and directing the same; and except also the special school tax authorized to be levied in any school district of the State, and except such special tax or collections as are authorized under any Act or Joint Resolution of the General Assembly; said County Treasurers are hereby prohibited from collecting any tax except such as has been first entered upon the tax duplicates of their respective Counties or upon the order of the Auditors of said Counties: *Provided*, That said County Treasurers shall furnish the said County Auditors of their respective Counties with the names of the taxpayers who may apply to pay their taxes against whom no taxes shall have been entered on the tax duplicate.

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For violation of this section see Criminal Code, Section 677.

Sec. 442. When the title or an interest in real or personal property, or any part thereof, shall have become transferred to or vested in any person not the owner at the time said property was assessed for taxation, before the expiration of the period for the payment of taxes thereon, it shall be the duty of the County Auditor, upon the application of the person acquiring such title or interest subsequent to assessment, and before the period for paying taxes has expired, to apportion the share of taxes due by the original owner upon that portion of or interest in the property acquired subsequent to assessment by the party so applying, and thereupon it shall be the duty of the County Treasurer to receive from the party so applying the proportionate share of taxes upon such part of interest so acquired since assessment as estimated by the Auditor, and give receipt for same, which receipt shall discharge such portion or interest from the taxes so assessed.

Apportionment of taxes on lands transferred after return, but before time of payment of taxes.

Civ. '02, § 399.

Sec. 443. It shall be the duty of each County Treasurer of the several Counties of the State to keep a book of entry containing a "General Cash Account" of the school fund of his County for each fiscal year, showing on the left hand page the unexpended school fund for the previous year, the total poll tax, the total two mill tax, the total special tax and the total amount of other school funds for the current year, and showing on the right hand page the date of payment by him, the date of approval by the School Commissioner, the school district's number, the School Trustee's number, the School Commissioner's number, and his number (his number beginning with the figure 1 and running on up successively through the fiscal year), the name of the payee, the name of the person presenting, and the amount of each warrant paid by him during the fiscal year. The said Treasurer shall also keep an account in said book with each school district in his County showing the amount due to the district for the previous year, the poll tax, the two mill tax, the special tax and any other funds due the district for school purposes, and the date of payment by him, the date of approval by the School Commissioner, the school district's number, the School Trustees' number, the School Commissioner's number, and his number (it being the

General cash account of County Treasurer. Entries therein.

Civ. '02, § 400.

Account with School Districts.

Entries therein.

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same number as in the "General Cash Account"), the name of the payee, the name of the person presenting, and the amount of each warrant paid by him during the fiscal year, drawn on the fund of that district.

As to the disposition of unpaid school taxes collected by the Sinking Fund Commission, see Section 116. *Ante*.

When and how money forwarded to State Treasurer: receipts therefor: duty in respect to penalty.

Civ. '02, § 401.

Sec. 444. Every County Treasurer shall on the first and fifteenth days of each month forward to the State Treasurer all the moneys collected by him for or on account of the State taxes, specifying for and on account of what fund the same were collected, for which an original and duplicate receipt shall be issued to him by the State Treasurer, of which the original shall be retained by the County Treasurer and the duplicate shall be forwarded by him to the Comptroller-General; and should said County Treasurer fail within ten days after he has received such receipt to send the same to the Comptroller-General he shall forfeit and pay a sum not exceeding two hundred dollars, nor less than fifty dollars, to be recovered in any Court having jurisdiction thereof, and the Comptroller-General, upon information made to him, shall take the necessary measures to cause the same to be recovered.

Notifies County Commissioners of funds collected.

Civ. '02, § 402.

Reports monthly to County Superintendent of Education.

Civ. '02, § 403.

Monthly report to Comptroller-General.

Civ. '02, § 403; 1907, XXV, 486.

Sec. 445. The County Treasurer shall, on the first and fifteenth days of each month, report to the County Board of Commissioners of his County the amount of funds collected for and on account of the County and the character of such fund. He shall, on the fifteenth day of each month, report to the County Superintendent of Education the amount of collections and disbursements made by him for the month on account of poll tax and all other school funds.

Sec. 446. He shall, on the sixteenth day of each month, report to the Comptroller-General, in such manner as he shall direct, a full and complete statement of the previous month or months, exhibiting the total collection made during the fiscal year, the amount disbursed, and cash on hand for or on account of any levy or tax collected by him, which report shall be denominated "The County Treasurer's Monthly Report." The Treasurer shall transmit with his said report the certificate of cashier of bank where funds are deposited, that the amounts shown in his hands by his cash balance are on deposit to his credit as Treasurer, and

f funds are not on deposit in a bank, then his own affidavit that the funds are, at the time of making said report, in his own hands in cash; also, an affidavit of County Auditor to the same effect.

Sec. 447. Whenever there is in the hands of any County Treasurer of this State any sum of money not necessary for current expenses, or which will apparently not be demanded for six months or more, said Treasurer shall deposit the fund or sum of money in some chartered bank, at such rate of interest as may be secured for the best interest of the County. The interest, when collected, shall be added to the fund or funds and paid out as other funds of the same sort are paid.

County Treasurer required to deposit certain funds at interest.

1909, XXVI, 166.

The Treasurer may require of the bank in which such fund or funds are deposited at interest a depositor's guaranty bond for the protection of the fund or funds, the same to be paid for out of the fund for which such guaranty is provided.

Sec. 448. He shall make out and forward annually to the Superintendent of Education, on the first day of November, a certified statement showing by school districts the amount of poll and all other school taxes collected by him for the fiscal year ending on the thirty-first day of October next preceding.

Annual report to Superintendent of Education.

Civ. '02, § 404.

Sec. 449. He shall make an annual report to the presiding Judge, at the second term of the Court of General Sessions in his County, which shall be held after the first day of January in each year, of the number, character and amount of claims paid by him on orders of County Commissioners and County School Commissioners and to whom paid, which report shall be submitted by said Judge to the grand jury for their examination, and shall be filed by the Clerk of said Court and kept in his office for public inspection. He shall cause said report to be published at least two weeks before the sitting of said Court, in some newspaper published in the County. The County Treasurers of Fairfield, Florence, Chesterfield, Clarendon, Marion, Williamsburg, Edgefield, Sumter, Colleton, Chester, Orangeburg, Greenville, Darlington, York, Pickens, Beaufort and Aiken Counties shall not be required or allowed, at public

Annual report to Court of General Sessions.

Civ. '02, § 405; 1906, XXV, § 45; 1910, XXVI, 632.

Exceptions.

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expense, to publish annually the itemized statements of their disbursements.

Act, 1906, XXV, 45, was held unconstitutional in *State ex rel. Fooshe v. Burley, Supervisor*, 80 S. C., 127; 61 S. E., 225. Fairfield County is included in above section under Act 1910, XXVI, 632.

Delinquent
taxes; penal-
ty; execution.

1902, XXIII,
972; 1909,
XXVI, 76.

Sec. 450. That when the taxes and assessments or any portion thereof charged against any property or party on the duplicate for the current fiscal year, shall not be paid on or before the 31st day of December, the County Auditor shall proceed to add a penalty of one per cent., on the County duplicate, and the County Treasurer shall collect the same; and if the said taxes and assessments and penalties are not paid on or before the first day of February next thereafter, an additional penalty of one per centum thereon shall be added by the County Auditor on the County duplicate and collected by the County Treasurer; and if said taxes, penalties and assessments are not paid on or before the first day of March next thereafter, an additional penalty of five per centum thereon shall be added by the County Auditor on the County duplicate and collected by the County Treasurer; and if the said taxes, penalties and assessments are not paid on or before the fifteenth day of March next thereafter, the said County Treasurer shall issue his tax execution for the said taxes, assessments and penalties against the property of the defaulting taxpayer, according to law.

Penalty not unconstitutional.—*Ex parte Lynch*, 16 S. C., 36.

Execution need not specify amount of taxes due each fund.—*Dickson v. Burckmyer*, 67 S. C., 539; 46 S. E., 343.

Mortgagee
may pay tax
and include
same in mort-
gage debt.

Civ. '02, §
407.

Sec. 451. Any person holding a lien by way of, or an interest in the nature of a mortgage upon any property, the subject of taxation, upon which the mortgagor shall have failed to pay the tax, or upon which there may exist a lien for taxes on any other property of the mortgagor, may, at any time before the sale thereof for delinquent taxes, as hereinafter provided, pay the tax on all the property of the mortgagor, with any costs, penalties or assessments which may have accrued thereon; and thereupon he shall be entitled, as against the mortgagor, his representatives, privies or assigns, to include the amount so paid, and all interest thereafter accruing thereon, in the debt secured by his mortgage.

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Forfeiture for taxes, with right of redemption existing, does not divest lien of mortgage.—*Annely v. DeSaussure*, 12 S. C., 512. Purchase at tax sale by mortgagee or assignee does.—*Devereaux v. Taft*, 20 S. C., 535. This section gives the mortgagee a legal remedy where the mortgagor fails to pay the taxes; hence equity will not interfere where the security is sufficient.—*Nathans v. Steinmeyer*, 57 S. C., 386; 35 S. E., 733.

Sec. 452. In all cases where the penalty for non-payment of taxes has attached to property held by assignees in bankruptcy and which could not be sold before the expiration of the time fixed by law for the payment of taxes, and in all cases where sales of property for the settlements of estates, for partition, for the foreclosure of mortgages, for the marshaling of assets, or for other purposes, ordered by any court in this State, have not been made in season for the payment of taxes due thereon, the Comptroller-General, upon proper evidence thereof, may remit the penalties and costs which by law attach for non-payment of taxes, and may also grant a stay of the collection of taxes upon such property until such time as the same shall be sold. And in all cases where such property held by assignees in bankruptcy, or property ordered by any court in this State to be sold for any of the purposes above mentioned, cannot be sold in time for the payment of the taxes due or to become due thereon, the Comptroller-General, upon proper evidence thereof, may authorize the collection of the taxes without costs and penalties and may stay the collection thereof until such time as the said sales shall be made: *Provided*, The stay of collection of taxes under this Section shall be only upon the written order of the Comptroller-General, made in each case in duplicate, the original order to be issued to the County Treasurer and permanently filed in his office and the duplicate order to be filed in the Comptroller-General's office, and shall state the title of the case and the order of sale by the court and the particular property upon which the collection of taxes is stayed.

Sec. 453. All personal property subject to taxation shall be liable to distress and sale for the payment of taxes, in the manner hereinafter provided, and all real property returned delinquent by the County Treasurer upon which the taxes shall not be paid by distress or otherwise shall be seized and sold as hereinafter provided. The distress and sale of personal property shall not be a condition precedent to seizure and sale of any real property hereunder.

Comptroller-General may remit penalties in certain cases.

Civ. '02, § 408.

Property liable for distress and sale for delinquent taxes.

Civ. '02, § 409; 1902, XXIII, 1132; 1909, XXVI, 76.

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Distress of personal property is prerequisite to sale of real estate for taxes due in 1876.—Johnson v. Jones, 72 S. C., 287; 51 S. E., 805.

No exemption against execution for taxes.—Oliver v. White, 18 S. C., 241.

Chattel tax
may be recovered by distress or suit.

Civ. '02, §
410.

Sec. 454. If any chattel tax shall be unpaid at the time fixed for the payment thereof by this Chapter, or returned delinquent, as authorized by this Chapter, the County Treasurer may not only distrain property for the payment thereof, but may recover the same, with the penalties thereon, by action at law, proceedings in attachment, or other means authorized by law to be used by private individuals in the collection of debts, which action or other proceedings shall be prosecuted in the name of such Treasurer; and if he shall die or go out of office before the termination of such action or proceeding, or the final collection of the money, or any judgment or order therein, his successor or successors may, from time to time, be substituted as plaintiff therein.

What steps
shall be taken
when owner
of chattel re-
sides in an-
other county.

Civ. '02, §
411.

Sec. 455. If, after the return of any chattel tax by any County Treasurer as delinquent, the County Treasurer shall know or be informed that the party against whom the same is charged resides in some other County in this State, or has property or debts due him therein, it shall be his duty to make out and forward to the Treasurer of such other County a certified statement of the name of the party against whom such taxes are charged, of the value of the property on which such taxes were levied, the amount of the taxes and penalties assessed thereon and that the same are delinquent, to the aggregate of which taxes and penalties he shall add twenty-five per cent. as collection fees, upon the receipt of which certificate it shall be the duty of the Treasurer of such other County to collect such delinquent taxes and penalties, with the twenty-five per cent. collection fees as aforesaid, for which purpose he shall have all the rights, powers and remedies conferred upon the Treasurer of the County in which such taxes were assessed, and be allowed the same fees for distraint and sale of property as if said taxes had been levied in his own County, and, upon collection made, may retain one-half of said twenty-five per cent. collection fees, and shall transmit the balance collected by him to the Treasurer of the County from whom he received such certified statement by mail. But if the Treasurer to

whom any such statement is sent cannot collect the amount therein named, or any part thereof, he shall return the same, so endorsed, with reasons for such non-collection.

ARTICLE III.

REMEDIES AND PROCEEDINGS FOR RELIEF OF TAXPAYERS.

Sec.

- 456. Collection of taxes not stayed by process of Court.
- 457. Proceedings upon claim that tax is unjust or illegal; payment under protest and action against Treasurer, etc.
- 458. Remedy thus provided exclusive; mandatory and preventive process of Courts inhibited, etc.
- 459. What costs taxable.
- 460. How taxes illegally assessed and collected may be refunded.

Sec.

- 461. Defense of actions against Auditors and Treasurers; parties to, costs, etc.
- 462. Measure of damages; exception.
- 463. When Attorney-General defends.
- 464. Levy and collections of tax to pay township bonds in aid of any railroad prohibited.

Section 456. The collection of taxes shall not be stayed or prevented by any injunction, writ or order issued by any Court or Judge thereof: *Provided*, That this Section shall only apply to State, County, city, town and school taxes; and taxes voted by townships in aid of railroads where the roads have been completed through said townships.

Collection of taxes not stayed by process of court.
Civ. '02, § 412: 1902, XXIII, 972.

See Section 400, *ante*.

Injunction cannot issue to restrain collection of license tax, which should be paid and resort be had to statutory action to recover.—*W. U. Telegraph Co. v. Winnsboro*, 71 S. C., 281; 50 S. E., 870. Injunction issued to restrain collection of tax for fireman's pension fund.—*Aetna Fire Ins. Co. v. Jones, Comptroller-General*, 78 S. C., 445; 59 S. E., 148; 13 L. R. A., (N. S.), 1147. Injunction cannot issue to restrain collection of income tax.—*Fleming v. Porter*, 77 S. C., 528; 58 S. E., 480.

Sec. 457. In all cases in which any County, State, or other taxes are now or shall be hereafter charged upon the books of any County Treasurer of the State against any person, and such Treasurer shall claim the payment of the taxes so charged, or shall take any step or proceeding to collect the same, the person against whom such taxes are charged, or against whom such step or proceeding shall be taken, shall, if he conceives the same to be unjust or illegal

How to proceed in case of claim that tax is illegal.
Civ. '02, § 418.

A. D. 1912.

for any cause, pay the said taxes notwithstanding, under protest, in such funds and moneys as the said County Treasurer shall be authorized to receive by the Act of the General Assembly levying the same; and upon such payment being made, the said County Treasurer shall pay the taxes so collected into the State Treasury, giving notice at the time to the Comptroller-General that the payment was made under protest; and the person so paying said taxes may at any time within thirty days after making such payment, but not afterwards, bring an action against the said County Treasurer for the recovery thereof in the Court of Common Pleas for the County in which such taxes are payable; and if it be determined in said action that such taxes were wrongfully or illegally collected, for any reason going to the merits, then the Court before whom the case is tried shall certify of record that the same were wrongfully collected and ought to be refunded, and thereupon the Comptroller-General shall issue his warrant for the refunding of the taxes so paid, which shall be paid in preference to other claims against the Treasury: *Provided*, That the County Treasurers shall be required to receive jury and witness tickets for attendance upon the Circuit Courts of the State receivable for taxes due the County in which the said services are rendered.

The right of action is given only to the person in whose name the taxes are listed, and not to one who afterwards purchases the property on which the lien exists.—*DeSoto Gold Mining Co. v. Smith*, 49 S. C., 188; 27 S. E., 1.

No other
remedy but
the one thus
provided.

Civ. '02, §
458.

Sec. 458. There shall be no other remedy in any case of the illegal or wrongful collection of taxes or attempt to collect taxes, or attempt to collect taxes in funds or moneys which the County Treasurer shall be authorized to receive under the Act of the General Assembly levying the same, being other than such as the person charged with said taxes may tender or claim the right to pay, than that herein provided. And no writ of *mandamus* shall be granted or issued from any Court, or by the Judge of any Court, directing or compelling the reception for taxes of any funds, currency, or bank bills, not authorized to be received for such taxes by the Act of the General Assembly levying the same; and no writ, order, or process of any kind whatsoever, staying or preventing any officer of the State charged with a duty

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in the collection of taxes from taking any step or proceeding in the collection of any tax, whether such tax is legally due or not, shall in any case be granted by any Court, or the Judge of any Court; but in all cases whatsoever the person against whom any taxes shall stand charged upon the books of the County Treasurer shall be required to pay the same in such funds and moneys as the said County Treasurer shall be authorized to receive by the Act of the General Assembly levying the said taxes in manner and form as above provided, and thereupon shall have his remedy under the provisions of the next preceding Section.

The Courts cannot interfere with the collection of taxes.—State v. Treasurer, 4 S. C., 520; State v. Gaillard, 11 S. C., 309; Camblee v. Tribble, 28 S. C., 76. Otherwise as to assessment.—State v. Cromer, 35 S. C., 213; 14 S. E., 493; State v. Boyd, 35 S. C., 233; 14 S. E., 496; State v. Covington, 35 S. C., 245; 14 S. E., 499.

Sec. 459. In any action brought under the provisions of the said Section, no costs or disbursements shall be taxed or allowed in favor of either party, except for the service of process and procuring the attendance of witnesses. No costs or disbursements allowed.
Civ. '02, § 415.

Sec. 460. If any taxes charged on any real estate be regularly paid, and such real estate be erroneously returned delinquent, and leased or sold for such taxes, the lease or sale shall be totally void; or if any taxes shall be illegally assessed and collected, when the same shall become known to the County Auditor, he shall, on demand of the party interested, submit the matter to the Comptroller-General; and if the Comptroller-General approve thereof, in writing, the amount paid by the purchaser at such void lease or sale, or the amount so illegally collected, shall be repaid to the party paying the same, out of the County treasury, on the order of the County Auditor; and so much of said taxes as shall have been paid into the State treasury shall be refunded to the County treasury, and the County Auditor shall retain the same in his next annual settlement, and charge the State therewith. Property erroneously returned delinquent.
Civ. '02, § 416.

Does not authorize repayment of tax paid on railroad bonds.—Carolina, C. G. & C. R. R. Co. v. Tribble, 25 S. C., 260.

Sec. 461. If any action be prosecuted, against the County Auditor or County Treasurer for performing, or attempting to perform, any duty enjoined upon them by the provisions of this Chapter, the result of which action will affect the

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Expenses of
all actions
against Coun-
ty Treasurer
or Auditor for
official acts to
be paid out of
county fund.

Civ. '02, §
417.

interests of the County, if decided in favor of the plaintiff in such action, such Auditor or Treasurer shall be allowed and paid out of the County treasury reasonable counsel fees and other expenses for defending such action, and the amount of any damages and costs adjudged against him. which fees, expenses, damages and costs, shall be apportioned ratably by the County Auditor among all the parties except the State, interested in the revenue involved in said action; and if the State be interested in the revenue in said action, the County Auditor shall, immediately upon the commencement of said action, inform the Comptroller-General of its commencement and of the alleged cause thereof, and the Comptroller-General shall submit the same to the Attorney-General, who shall defend said action for and on behalf of the State; and if only some local levy made by town or other municipal authority be involved in such suit, such town or other municipal authority shall employ and pay counsel and all damages and costs recovered in such action; and the County Auditor and Treasurer, or both, if both be sued, may, by petition, answer, or motion in Court, cause the town or other local or municipal authorities interested in the revenue involved in the action, to be made parties thereto (if not already parties), and the Court in which such action may be pending shall cause the town or other local or municipal authorities to be made parties to such action, and render judgment for any damages and costs which may be found in favor of the plaintiff against said town or other municipal or local authorities, and not against said Auditor or Treasurer.

Recovery
against Coun-
ty Treasurer
not to exceed
value of the
property.

Civ. '02, §
418.

Sec. 462. In any action or proceeding against any County Treasurer in this State, for the purpose of recovering any property or money alleged to have been erroneously or illegally assessed and collected as taxes, assessments, or penalties, unless the party bringing such action or proceeding shall make it appear that a notice in writing of the claim on which such suit may be brought was given to said Treasurer in pursuance of Section 457 of this Chapter, and unless it shall be made to appear that said Treasurer has proceeded contrary to the provisions of this Chapter, the amount recovered in such suit shall not exceed the value of the property or money aforesaid.

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The Attorney-General shall defend any County Treasurer or other officer sued for money collected on any tax.

Civ. '02, § 419.

Sec. 463. It shall be the duty of the Attorney-General of the State to defend any suit or proceeding against any County Treasurer, or other officer, who shall be sued for moneys collected or property levied on or sold on account of any tax, when the Comptroller-General shall have ordered such collector to proceed in the collection of any such tax, after notice as aforesaid, or suit brought; and any judgment against such Treasurer, or other officer, finally recovered, shall be paid in the manner provided in Section 461 of this Chapter.

Levy and collection of tax to pay township bonds in aid of any railroad prohibited.

Civ. '02, § 420.

Sec. 464. No Board of Township Commissioners nor County Board of Commissioners, nor any other officer or officers, shall assess or levy, and no County Treasurer nor other officer or officers shall collect, any tax for the payment of Township bonds, or the coupons thereof, or judgments entered up thereon, issued in the aid of a railroad: *Provided*, This Section shall not apply to those bonds issued in the aid of railroads that have been completed and finished through such townships as have issued such bonds, nor until such road shall have been accepted by the Railroad Commissioners: *Provided, further*, That the provisions of this Section shall not apply to Newberry County, or any part thereof, nor to bonds issued in aid of the Pickens Railroad Company by certain townships in Pickens County.

ARTICLE IV.

ENFORCED COLLECTION OF DELINQUENT TAXES.

SEC.

- 465. Treasurer issues execution to Sheriff; form of.
- 466. Fees and charges.
- 467. Sheriff to seize, advertise and sell property; put purchaser in possession, etc.
- 468. When Auditor to buy for Sinking Fund Commission; how titles to be made, etc.
- 469. Sale of, use and occupancy of municipal property.
- 470. Sheriff's deed *prima facie* evidence of good title; limitation of action.

SEC.

- 471. Suspension of sale; when and on what grounds; evidence waiver.
- 472. Return of execution and paying over money; Sheriff's duties and how enforced; penalty.
- 473. Duplicate tax executions: when issued.
- 474. Limitation of lien for taxes.
- 475. Contracts to evade tax laws against public policy.

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Treasurer issues execution to Sheriff; form of.

Civ. '02, § 421.

Section 465. Immediately upon the expiration of the time allowed by law for the payment of taxes in any year, the County Treasurer of each County shall issue, in the name of the State, a warrant or execution in duplicate against such defaulting taxpayer in his County, signed by him in his official capacity, directed to the Sheriff of his County or his lawful deputy, requiring and commanding him to levy the same by distress and sale of so much of the defaulting taxpayer's estate, real or personal, or both, as may be sufficient to satisfy the taxes, State, school, County and special, of such defaulter, specifying therein the aggregate amount of all his taxes, as well as the amount to each fund; which warrant or execution shall run substantially in these words (filling the blank to suit each case), viz.: Treasurer for the County of to the Sheriff of County, or his lawful deputy: Whereas has been duly assessed the sum of dollars for defraying the charges of the State, school, County and special, for the fiscal year beginning, November 1, 19 , as follows, to wit: For the State, \$; for public schools, \$; for County, \$; for special, \$; which has neglected to pay: These are, therefore, in the name of the State, strictly to charge and command you to levy by distress and sale of the personal property, and if sufficient personal property cannot be found, then by distress and sale of the land of the said, the sum of dollars, together with dollars, the charges hereof; and for so doing this shall be your sufficient warrant.

Given under my hand and seal this day of
A. D., 19

. [L. s.]

Treasurer of County.

Execution should specify whether for capitation or property tax.—*State v. Graham*, 2 Hill, 457. Need not specify subject of taxation.—*State v. City Council*, 4 Rich., 286. Execution for taxes, in part illegal, not specifying amount illegal, is altogether void.—*State v. Hodges*, 14 Rich., 256. Personal property must under certain statutes be exhausted before land can be sold.—*Ebaugh v. Mullinax*, 34 S. C., 364; 16 S. E., 613; *Curtis v. Renneker*, 34 S. C., 468; 18 S. E., 664. But under late tax Acts the failure to exhaust the personalty does not necessarily defeat the title of the purchaser to the land.—*Interstate B. & L. Ass'n v. Waters*, 50 S. C., 459; 27 S. E., 948. Form of execution; irregularities.—*Dickson v. Burckmyer*, 67 S. C., 588; 46 S. E., 848.

Sec. 466. The Treasurer for every such warrant issued shall have from such defaulter \$1.00; and the Sheriff shall take from such defaulter the following fees in the execution of his office, to wit: For serving each warrant, \$1.00, besides mileage at the rate of 5 cents for each mile actually traveled in executing the warrant; for advertising sale, 25 cents; for making sale and executing deed of conveyance, and putting purchaser in possession, \$3.00; and for all sums levied as aforesaid, five per cent.: *Provided*, That the printer's charges for advertising shall not exceed 50 cents for each tract of land and 25 cents for personal property, levied on under each execution, and the Sheriff is prohibited from demanding or collecting any greater sum therefor than is hereby allowed; and neither the Sheriff nor County Treasurer shall receive fees upon *nulla bona* returns.

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Fees and charges.
Civ. '02, § 422.

The Sheriff is not entitled to retain the 5 per cent. commissions paid under protest to release property from an illegal levy.—*Cleveland v. McCravy*, 46 S. C., 252; 24 S. E., 175.

Sec. 467. Under and by virtue of said warrant or execution, the Sheriff shall seize and take exclusive possession of so much of the defaulting taxpayer's estate, real or personal, or both, as may be necessary to raise the sum of money named therein, and said charges thereon; and, after due advertisement, sell the same before the court house door in the County, on a regular salesday, and within the usual hours for public sales, for cash, give to the purchaser (upon his complying with the terms of sale) a receipt for the purchase money, but not make title to the purchaser until the expiration of six months from the day of sale, if the property sold be not redeemed as hereinafter provided, and annex said receipt to the duplicate warrant with the endorsement thereon of his action thereunder, and shall, after deducting from proceeds of sale the costs and expenses of said sale, pay over to the County Treasurer the taxes, charges and penalties due and incurred by said defaulting taxpayer; and upon written notice given, or information ascertained from the records, of any mortgage or other lien on said premises so sold for taxes, shall hold the excess, if any, until authorized or directed by proper judicial authority as to mode of disposition, or by the written consent of the defaulting taxpayer that the said excess be paid

Sheriff to seize, advertise and sell property under execution for delinquent taxes; right of redemption; execution of title.
Civ. '02, § 973; 1902, XXIII, 973.

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Redemption :
proceedings
on.

When pur-
chaser shall
receive title
and posses-
sion.

Proviso as
to sales un-
der Act of
1901.

over to the mortgage or lien creditor, and according to priority if more than one: *Provided*, That the owner or grantee or any mortgage creditor may within six months from the day of such sale redeem such property by paying to the Sheriff the taxes, penalties, costs and expenses of said sale, together with eight per cent. interest on the whole amount of the purchase price of said land so sold, and thereupon the Sheriff shall pay back and refund to the said purchaser the amount paid on his bid, with interest as above stated, and the bid by said purchaser shall be then cancelled and revoked, the owner or grantee remaining in possession of his said land: *Provided, further*, That should any mortgagee redeem said land as above permitted, then the amount so paid by him for taxes, charges, costs and penalties shall be added to the mortgage debt or other lien, with same incidents as to priority and with same rate of interest and collectible in the same way as the original mortgage debt. Upon failure of defaulting taxpayer or other party interested to redeem said land so sold for taxes within six months as stated, then the Sheriff shall make title to the purchaser and put the purchaser in possession of the property sold and conveyed: *Provided, further*, That in case of threatened waste or damage to the premises by the owner or any other party, during the six months allowed for redemption, the purchaser at said tax sale shall have the right to apply to the Court of Common Pleas or a Judge thereof for injunction against such waste and for a receiver to take charge of the property until the end of the six months for redemption unless sooner redeemed: *Provided, further*, That in any case where the Sheriff of any County shall have made a deed under the Act approved the 20th day of February, 1901, and said land has been or shall be redeemed under the provisions of said Act, it shall be the duty of the Sheriff upon demand of the owner of said land to execute to said owner a deed of the land so redeemed, citing the proceedings under which said land was sold, and upon said deed being executed and delivered, the title to said land shall revert in the owner as though said tax sale had never been made.

Section Constitutional.—State v. Allen, 2 McC., 55. Sale invalid, on day other than fixed by law.—Roddy v. Purdy, 10 S. C., 138; Dougherty v. Crawford, 14 S. C., 628. Irregular sale, where no deed is delivered, gives no title.—Garlington v. Copeland, 32 S. C., 57; 10 S. E., 616. Lands listed as of

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unknown owner may be sold.—Gilliland v. Baptist Church, 33 S. C., 164; 11 S. E., 684. No homestead against tax sales.—Shell v. Duncan, 31 S. C., 547; 10 S. E., 330. But inchoate right of dower remains.—Ib. Defaulting taxpayer can, by ordinary action, recover surplus proceeds from Sheriff.—State v. Turner, 32 S. C., 348; 11 S. E., 99.

As to exhausting personalty before selling realty.—See Ebaugh v. Mullinax, 34 S. C., 374; 13 S. E., 613; Interstate B. & L. Ass'n v. Waters, 50 S. C., 459; 27 S. E., 948; Johnson v. Jones, 72 S. C., 272; 51 S. E., 805.

Mandamus will issue to compel execution of deed by the Sheriff on purchaser's complying with bid.—State ex rel. Harley v. Lancaster, 46 S. C., 282; 24 S. E., 198; or to compel delivery of possession.—State ex rel. Gibbs v. Morrison, 44 S. C., 470; 22 S. E., 605. Rule against Sheriff not the remedy.—Gibbs v. Morrison, 39 S. C., 360; 17 S. E., 808. Sale of entire tract held not an excessive levy.—Wilson v. Cantrell, 40 S. C., 114; 13 S. E., 517.

Sheriff must "seize and take exclusive possession" of the property. Sale must be for cash. Purchaser may assign bid, attaching execution to deed. Excessive levy; discretion of Sheriff.—Dickson v. Burckmyer, 67 S. C., 526; 46 S. E., 343. Levy by officer not legally appointed and qualified, illegal.—Barrineau v. Stevens, 75 S. C., 252; 55 S. E., 309.

Sec. 468. In case there be no bid equal in amount to the taxes named in said warrant or execution, the County Auditor shall buy the land for the Sinking Fund Commission, as the actual purchaser thereof, for the amount of said taxes and penalties, costs and charges; and the Sheriff shall thereupon execute titles to said Sinking Fund Commission, as to any other purchaser, and in the manner above provided, and shall put them or their authorized agent in possession of the premises. The land so sold and purchased and delivered to said Commission shall be treated by them as assets of the State in their charge, and be sold at such times and in such manner as by them shall be deemed most advantageous to the State.

When Auditor to buy for Sinking Fund Commission; how titles to be made, etc.

Civ. '02, § 424.

State v. Thompson, 18 S. C., 538; Owens v. Owens, 25 S. C., 155.

Sec. 469. Whenever any taxes, State, County, school or township, hereafter may accrue upon any land or buildings, or portions thereof, or upon any other property of any municipal corporation by reason of said land, buildings or other property, or portions thereof, not having been used "exclusively for public purposes and not for revenue," and hereafter may become past due and unpaid, and it becomes necessary to collect the same by distress, then the Sheriff, whether acting under an execution from the County Treasurer or from the Secretary of State as agent of the Commissioners of the Sinking Fund, shall, at public sale, sell not the "fee," as in other cases, but only the "use" and "occupancy" of such portions of said land, building or

Municipal authorities may sell the use and occupancy of land for taxes; when, how and for what term.

Civ. '02, § 425.

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property of such municipal corporation as the same accrued upon, to that bidder who will for the shortest term pay the taxes, penalties, costs and charges accrued thereon; and at such sale to protect the interest of the State, if there be no cash bid equal to the taxes, penalties, costs and charges accrued thereon, then the said property, or portion thereof offered for sale, shall be knocked down to the Sinking Fund Commission for a term not exceeding ninety-nine years; and it shall be the duty of the Sheriff to make titles for the term of years required by the bid to the purchaser, and put said purchaser (whether the Sinking Fund Commission or any other person) into possession in like manner as when the fee is by him sold for taxes.

Use for public purposes not to defeat the sale.

The use and occupancy for public purposes at the time of levy or sale of any portion of property levied upon or sold for taxes accrued by reason of same not having been formerly used "exclusively for public purposes and not for revenue" shall not defeat the remedy for collection provided in this Section.

As to prior law, see *City of Columbia v. Tindal*, 43 S. C., 547; 22 S. E., 341.

Sheriff's deed *prima facie* evidence of good title; limitation of action.

Civ. '02, § 426.

Sec. 470. In all cases of sale the Sheriff's deed of conveyance, whether executed to a private person, a corporation or the Sinking Fund Commission, shall be held and taken as *prima facie* evidence of a good title in the holder, and that all proceedings have been regular, and all requirements of the law have been duly complied with. No action for the recovery of land sold by the Sheriff under the provisions of this Article, or for the recovery of the possession thereof, shall be maintained unless brought within two years from the date of said sale.

Courts must give tax title full statutory effect.—*Cooke v. Pennington*, 7 S. C., 387. But claimant must prove title.—*Ib.*, 15 S. C., 192. Tax deed *prima facie* evidence.—*Ib.*; *Shell v. Duncan*, 31 S. C., 547; 10 S. E., 330. Unless deed shows that sale was invalid.—*Cooke v. Pennington*, 15 S. C., 192. But it is not vitiated by failure to recite performance of prerequisites.—*Shell v. Duncan*; *supra*. Yet it may be defeated by showing lack of such prerequisites.—*Ib.* *Poole v. Evans*, 57 S. C., 79; 35 S. E., 436. The burden of proof as to defects is on the party attacking the deed.—*Wilson v. Cantrell*, 40 S. C., 114; 18 S. E., 518. Must be construed in connection with the following section.—*Bull v. Kirk*, 37 S. C., 395; 16 S. E., 151. Complaint hereunder; limitation is affected by disability of infancy.—*Jones v. Boykin*, 70 S. C., 309; 49 S. E., 877. Recording tax title notice.—*Hudson v. Schumpert*, 80 S. C., 25; 61 S. E., 104. A tax deed made in 1872 is *prima facie* evidence of title.—*Heyward v. Christensen*, 80 S. C., 146; 61 S. E., 899. Limitation

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action to set aside tax deed.—Guerard v. Jenkins, 80 S. C., 223; 61 S. E., 18.

See Pollitzer v. Beinkamper, 76 S. C., 517; 57 S. E., 475. Limitation commences to run when purchaser is put in possession.—Gardner v. Reedy, 62 S. C., 503; 40 S. E., 947. Limitation only applies where execution is issued against real owner.—Smith v. Cox, 83 S. C., 1; 65 S. E., 222.

Sec. 471. In case the taxpayer alleged to be in default after levy of distress as aforesaid shall allege that the taxes have been paid, or are unjustly assessed against him, he can and may have the sale suspended, if before the sale he offers satisfactory evidence to the Sheriff that said taxes have been paid or improperly assessed against him, and within twenty days thereafter take such steps as are provided by law for correction of unjust assessment, or to prove payment, and prosecute the same to a successful result within a reasonable time. And in case such taxpayer offers no such proof, or fails to take the course herein provided, he shall be deemed in law to have waived all exceptions to the omissions, errors and irregularities (if any there be) in the assessment of said tax, and in all preliminaries to said sale as prescribed by law, and to have admitted that each and all preliminary steps to said assessment and sale, and said assessment and sale were in accordance with the requirements of law.

Suspension of sale; when and on what grounds; evidence; waiver.

Civ. '02, § 427.

Failure to comply with this section does not bar right to recover land.—Dickson v. Burckmyer, 67 S. C., 540; 46 S. E., 343; Bull v. Kirk, 37 S. C., 400; 16 S. E., 151. Cannot be invoked to show waiver of taxpayer's rights against purchaser.—Gardner v. Reedy, 62 S. C., 503; 40 S. E., 947.

Sec. 472. The Sheriffs in the several Counties in the State, in making levies and sales, in making returns, and in paying over money collected under tax warrants and executions placed in their hands by County Treasurers, shall be subject to the direction and under the control of the Comptroller-General of the State, as they are now in like manner to plaintiffs in execution; and the Comptroller-General is hereby invested with all the rights and privileges of a plaintiff in execution, to invoke and obtain the aid of the Court to compel refractory Sheriffs to discharge their duties in the enforcement of tax executions; and it is hereby made the duty of the said Sheriffs, respectively, to make return of all tax executions to the Treasurer of their respective Counties within ninety days after the date of issue thereof, designating such as may be *nulla bona* and such as may

Duties of Sheriffs as to tax executions; subject to control of Comptroller-General.

Civ. '02, § 428.

A. D. 1912.

have been collected by distress or otherwise, and within the same time to pay over to the said Treasurer all taxes and penalties collected by them; and the several County Treasurers shall, at the last term of the Circuit Court in each year for their respective Counties, deliver to the foreman of the grand jury a complete list of all tax executions delivered to the Sheriff for collection, and which have not been collected, and the grand jury shall examine the said list, and present the Sheriff for any default or neglect in the performance of his duties relative to the enforcement of such executions. And in case any Sheriff shall make default in paying over within the time aforesaid any moneys collected on said executions, it shall be the duty of the County Treasurer, and he is hereby required, immediately to bring suit against such defaulting Sheriff in any Court of competent jurisdiction, in which suit such Sheriff shall be liable to treble the amount for which he has defaulted; and in case of any loss resulting by reason of the failure of the County Treasurer to perform the duties herein set forth, such Treasurer shall be liable therefor.

As to disposition of *nulla bona* tax returns see Section 105, ante.

Duplicate
tax execu-
tions; how
issued.

Civ. '02, §
429.

Sec. 473. When it shall be made to appear to the satisfaction of the presiding Judge of the Court of Common Pleas for any County in this State, by petition or upon due notice to the County Commissioners, that any tax execution heretofore issued, or which may hereafter be issued, by the County Treasurer of County, has been lost, and that the amount due thereon has not been collected, either in whole or in part, to issue an order, directed to the Treasurer of said County, ordering and directing him to issue an alias or duplicate execution in the place and stead of the one which has been lost; and upon the receipt of said order, it shall be the duty of said County Treasurer to immediately issue an alias or duplicate tax execution as directed in said order.

Said duplicate or alias executions shall, by said County Treasurer, be marked "duplicate" or "alias" execution, and when so issued and marked, shall have the same force and effect as the original execution could or would have, if the same had not been lost.

Sec. 474. All taxes hereafter levied or becoming due under the laws of this State shall be conclusively presumed

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paid after ten years from the last date said taxes could have been paid without penalty: *Provided*, That this Act shall not apply to taxes for the collection of which the State shall institute judicial proceedings within the time limited above: *Provided, further*, That the State may bring suit in Court for back taxes any time within ten years from the date when they should be paid, whether they are on or off the tax books, and may bring suit in Court for any taxes which should have been paid before March 31st, 1899, at any time within ten years from the 28th day of February, 1899, whether on or off the tax books; and on collection of such taxes they shall be distributed to the State, Counties and school districts to which they would have gone if they had been paid at the time fixed by the Act which levied the same: *Provided, further*, That except as to the conclusive presumption after ten years of payment of taxes by taxpayer as herein provided, this Act shall in no way affect or impair the operation of Sections 104, 105 and 106: *Provided, further*, That where any taxpayer has omitted or neglected to make a return of his property for taxation or has made a false return thereof for such purpose for or in any year, where the collection of the tax is not barred by the limitation of time herein mentioned, and the County Auditor of the County where said return or returns should have been made, is informed of that fact, he shall forthwith notify said defaulting taxpayer, or if he be dead, his personal or legal representative, or representatives, to appear before him at his office at a time fixed in said notice and shall proceed to assess said property not returned as prescribed in Sections 395, 396, 397, 398 and 399. Should the party to be served with notice be a non-resident, then said notice shall be served by a publication of said notice in some newspaper, and mailing a copy thereof to said party, as prescribed for service of non-residents by the Code of Civil Procedure of this State, and said taxes shall be assessed and collected as provided in the Section above referred to.

To be marked "Duplicate."

Liens for taxes expire in ten years; proviso.

Civ. '02, § 430.

Assessment of property not on books. 1905, XXIV, 878.

Sec. 475. All contracts that are entered into with intent to evade payment of taxes or in fraud of the tax laws of this State be, and are hereby, declared against public policy. No court in this State shall lend its aid in the enforcement

Contracts in evasion of tax laws against public policy.

1902, XXIII, 970.

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Not enforce-
able in courts.Substituted
contracts of
same effect.

of such contract whether the same has heretofore been entered into or may hereafter be entered into. The Courts of this State shall not lend their aid to enforce any contract entered into as a substitute for or having as its consideration a previous contract of the nature or class of contracts heretofore declared against public policy.

ARTICLE V.

ANNUAL SETTLEMENTS OF COUNTY TREASURERS.

SEC.

476. Settlement of Auditor with Treasurer; when and how made.

477. Treasurer's remedy when charged with tax not in fact paid.

478. Auditor notifies County Supervisors and County Superintendent of Education of day of settlement; their attendance, and what they must produce.

479. Auditor notifies Foreman of Grand Jury and Comptroller to be present to witness settlement.

SEC.

480. Day fixed for settlement.

481. Settlement sheets signed in duplicate; by whom and where filed.

482. Comptroller furnishes copies of reports to County officials.

483. Irregularities, etc., reported to Court of Sessions; by whom.

484. Comptroller prescribes system of bookkeeping and examines books.

Settlement of
Auditor with
Treasurer;
when and how
made.

Civ. '02, §
481.

Section 476. Each County Auditor shall attend at his office on or before the first day of May, annually, or at any other time the Comptroller-General may direct, to make settlement with the Treasurer of his County and ascertain the amount of taxes, penalties and assessments collected by such Treasurer and the amount with which he is to stand charged on account thereof and on account of each fund for which a levy was made on the duplicates. The Auditor shall take from the duplicate previously put into the hands of the Treasurer for collection, a list of all such taxes, assessments and penalties as such Treasurer has been unable to collect, describing the property as described on the duplicate, and shall note thereon in a marginal column the several reasons assigned by the Treasurer why such taxes or other charges could not be collected, which list shall be denominated the delinquent list, and shall be signed and sworn to by the

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Treasurer, before said Auditor, who shall record the same in a book to be provided for the purpose and transmit an abstract thereof to the Comptroller-General; and in making such list, the delinquencies in each district, city, village and town shall be stated separately. And after deducting the amount of taxes, assessments and penalties so returned delinquent, the Treasurer shall stand charged with the remainder of the taxes, assessments and penalties charged on the duplicate: *Provided, however,* That only the following causes shall be assigned by the Treasurer on said delinquent list for not collecting any tax, penalty or assessment, to wit:

1. Sheriff's return to execution issued, that no sufficient property of the party charged therewith could be found, out of which to make the same.

2. That property was found, but, for want of bidders, was sold and conveyed to the Sinking Fund Commission by the Sheriff, pursuant to law.

3. Execution issued and in the hands of the Sheriff.

4. That such taxes, assessments and penalties were enjoined by a competent Court.

Sec. 477. If, in making such settlement, the Treasurer shall stand charged with any tax, assessment or penalty, which in fact was not paid prior thereto, he may at any time while remaining in office collect the same by distress and sale of property, as in other cases of delinquent taxes, or by action in his own name, as for money paid for the use of the party or parties charged with or bound to pay said tax, penalty or assessment, and after going out of office he may maintain an action in his own name, as aforesaid, for the collection of such tax, penalty or assessment.

Treasurer's
remedy when
charged with
tax not in
fact paid.

Civ. '02, §
432.

Sec. 478. When the County Treasurers of the several Counties shall have disbursed all the County and school funds of each fiscal year, and are ready to make their settlements with their respective County Auditors for the County and school taxes charged against them upon the Treasurer's tax duplicates, they shall so notify the County Auditors, whereupon the County Auditors shall notify the County Supervisors and County Superintendents of Education of their respective Counties of the day of such settlement; and the said County Supervisors and County Super-

Auditor no-
tifies County
Supervisors
of Roads and
School Com-
missioners of
day of settle-
ment; their
attendance,
and what they
must produce,
etc.

Civ. '02, §
433.

A. D. 1912.

intendents of Education are hereby required to produce, in the office of the Auditor of their respective Counties, the claims allowed and ordered paid by them, and vouch thereby each amount presented by the County Treasurer for a credit in his settlement with the Auditor for the amount of County and school taxes which are charged against him on the Treasurer's duplicate for each year. The County Auditors and Treasurers shall annually have a full and final settlement as to tax executions issued by said Treasurers within twelve months after the expiration of the time allowed by law for the payment of taxes in any year.

Auditor notifies Foreman of Grand Jury and Comptroller to be present to witness settlement.

Civ. '02, § 484.

Sec. 479. It shall be the duty of the Auditor of each County to notify the foreman of the Grand Jury thereof and the Comptroller-General of the day upon which said settlement is to be made, and the Comptroller-General, or some one duly authorized by him, and the foreman of the Grand Jury of each County are hereby required to be present and witness said settlements.

Day fixed for settlement.

Civ. '02, § 485.

Sec. 480. The day fixed for the settlement provided for in two next preceding Sections shall be on or before the 1st day of May, or as soon thereafter as the Comptroller-General may appoint.

Settlement sheets signed in duplicate: by whom, and where filed.

Civ. '02, § 486.

Sec. 481. When said settlements shall have been completed, the settlement sheets shall be signed by the County Commissioners and County Treasurers, the County Superintendents of Education and County Treasurers, in duplicate and certified by the County Auditor; one copy of which shall be filed in the County Auditor's office and the other mailed to the Comptroller-General, to be by him reported to the General Assembly.

Comptroller furnishes copies of reports to County officials.

Civ. '02, § 487.

Sec. 482. It shall be the duty of the Comptroller-General to mail each year a copy of his report containing such settlements to the Clerk of the Court, County Commissioners, School Commissioners and County Auditors of each County of the State, to be filed and kept by said officers in their several offices.

Irregularities, etc., reported to Court of Sessions: by whom.

Civ. '02, § 488.

Sec. 483. If in the making of said settlement there shall be discovered any irregularities or violations of law by any of said officers, the Comptroller-General and the foreman of the Grand Jury shall report the same to the Court of

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General Sessions of the County where such irregularities or violations of law shall have been discovered.

Sec. 484. The Comptroller-General shall prescribe the system of bookkeeping to be used in the offices of County Commissioners, School Commissioners, County Treasurers and County Auditors of the State, so that the same shall be uniform; and in making his visit to witness the settlements herein required he shall examine the books of the said several offices and report the results of his examination to the General Assembly.

Comptroller
prescribes
system of
bookkeeping
and examines
books.

Civ. '02 §
489.

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TITLE IV.

CHAPTER XIV.

Of the Militia.

- ARTICLE 1. General Provisions
- ARTICLE 2. The Adjutant and Inspector-General.
- ARTICLE 3. The Quartermaster-General.
- ARTICLE 4. Organization of the National Guard of the State.
- ARTICLE 5. Commissioned officers of the National Guard.
- ARTICLE 6. Enlisted men of the National Guard.
- ARTICLE 7. South Carolina National Guard in the City of Charleston.
- ARTICLE 8. Arms, Parades, Drills, etc.
- ARTICLE 9. Military Courts.

ARTICLE I.

GENERAL PROVISIONS.

SEC.	SEC.
485. A Military Code established.	497. Rules to be prescribed by The Adjutant-General.
486. Who subject to military duty.	498. Military Board; allotment of appropriation.
487. How the militia shall be divided.	499. Inspections.
488. Governor shall be Commander-in-Chief. No military force of another State to enter without his consent.	500. List of companies passing inspection.
489. Governor's Staff.	501. Powers of Commander-in-Chief; enlistments.
490. Governor's power in case of insurrection.	502. By-laws of company; violation thereof.
491. Reserve militia.	503. Special charters.
492. Governor may declare military law.	504. Rules of government.
493. Duties of militia.	505. Officers may administer oaths.
494. Militia in active service subject to articles of war.	506. Exemption from arrest.
495. Penalty for not appearing.	507. "Company" defined.
496. Uniform.	508. Bonds of officers; armories.
	509. Naval militia.

Section 485. The Act of Congress, approved January 21, 1903, entitled "An Act to promote the efficiency of the militia and for other purposes," is hereby accepted by the

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A Military
Code estab-
lished.1905, XXIV,
792; 1908,
XXV, 1103;
1910, XXVI,
610.Who subject
to military
duty.

State of South Carolina and the provisions of said Act, in so far as they are applicable to this State, are made a part of this Military Code.

Except where otherwise noted, the sections in this chapter are from Statutes at Large, 1905, XXIV, 792.

Sec. 486. All able-bodied male citizens between the ages of eighteen and forty-five years residing in this State, and not exempted by the laws of the United States, shall be subject to military duty, and shall constitute the militia of this State, excepting:

1st. All persons in the army or navy or volunteer forces of the United States.

2d. Regularly ordained or licensed minister of the Gospel.

3d. The Lieutenant-Governor, members and officers of the General Assembly and all State and County officers.

4th. All persons entertaining conscientious scruples against bearing arms, practicing physicians, professors, teachers and students in colleges, academies and common schools, ferrymen employed at any ferry on a post road and millers.

5th. Commissioned officers who shall have served as such in the militia of this State, or of any one of the United States, for the space of seven years, and by resignation after such term of service, duly accepted, or in some other lawful manner shall have been honorably discharged.

6th. Idiots, lunatics, paupers and persons convicted of infamous crimes.

All such exempted persons, except those enumerated in subdivisions 1 and 6, shall be available for military duty in case of war, insurrection, invasion or imminent danger thereof.

Sec. 487. The militia of the State shall be divided into two classes—the *active* and the *reserve* militia. The active militia shall consist of the organized and uniformed military forces of the State, which shall be known as the National Guard of the State. When called into active service, the colored organizations shall, as far as practicable, be kept separate from white troops, but in cases where it becomes necessary for the colored and white troops to serve

How the
militia shall
be divided.

A. D. 1912.

together, the command shall devolve upon the senior officer of the white troops present, regardless of rank.

Governor shall be Commander-in-Chief.

Sec. 488. The Governor of the State, by virtue of his office, shall be the Commander-in-Chief of the militia of the State, except of such portions as may at times be in the service of the United States.

No military force of another State to enter.

No armed military force from another State, Territory or District shall be permitted to enter the State for the purpose of doing military duty therein without the permission of the Governor, unless such force is part of the United States Army, or is acting under the authority of the United States.

Governor's Staff.

1908, XXV, 1103; 1910, XXVI, 610.

Sec. 489. The military staff of the Governor shall consist of The Adjutant-General, who shall have the rank of brigadier-general, one adjutant-general with rank of colonel, who shall be assistant to The Adjutant-General, a quartermaster-general, a judge advocate-general, a commissary-general, a surgeon-general, a chief of ordnance, each of whom shall have the rank of colonel; three aides-de-camp, who shall each have the rank of colonel, and as many additional aides-dè-camp, with the rank of lieutenant-colonel, as the Governor may deem necessary: *Provided*, That in time of peace, the duties of the inspector-general, the quartermaster-general, and the chief of ordnance shall devolve upon The Adjutant-General. The three aides-de-camp with the rank of colonel, shall be selected from the commissioned officers of the National Guard, but the three aides-de-camp with the rank of lieutenant-colonel may be appointed without restriction as to source of selection: *Provided*, That no officer now on the staff of the Governor shall be deprived of his commission by reason of the restriction of this Section as to number of such staff officers. All of these staff officers shall be appointed by the Governor, by and with the advice and consent of the Senate, except The Adjutant-General and an adjutant-general with the rank of colonel, and shall hold office during his pleasure, but their commissions shall expire with the term of office of the Governor appointing them. The United States officer, detailed for duty to this State, shall have the title of military secretary to the Governor, with rank of colonel.

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Sec. 490. The Governor shall have power, in case of insurrection, invasion, tumult, riot, or breach of the peace, or imminent danger thereof, to order into active service of the State any part of the militia that he may deem proper. When the militia of this State or a part thereof is called forth, under the Constitution and laws of the United States, the Governor shall order out for service the active militia, or such part thereof as may be necessary, and if the number available be insufficient, he shall order out such part of the reserve militia as he may deem necessary. During the absence of organization of the National Guard in the service of the United States their State designations shall not be given to new organizations.

Governor's
power in case
insurrection.

Sec. 491. The portion of the reserve militia ordered out or accepted into the service, as indicated in Section 490 of this Article, shall be immediately mustered into the service of the State for one year, or such less period as the Governor may direct, and shall be organized into troops, batteries or companies, which may be arranged in squadrons, battalions or regiments, or assigned to organizations of the National Guard already existing. The Governor is authorized to appoint the officers necessary to commence or complete any organization thus created. Such new organization shall be equipped, disciplined and governed according to this Military Code and the military regulations of the State.

Reserve mi-
litia.

Sec. 492. Whenever any portion of the militia is employed in aid of the civil authority, the Governor, if in his judgment the maintenance of law and order will thereby be promoted, may, by proclamation, declare the County or city in which the troops are serving, or any specified portion thereof, to be in a state of insurrection.

Governor
may declare
military law.

Sec. 493. The militia shall not be subject to active duty, other than the specified drills, parades, practice, marches, encampments, target practice, etc., except in case of war, or for preventing, repelling or suppressing invasion, insurrection or riot, or of aiding civil officers in the execution of the laws, in which cases the Commander-in-Chief, or in his absence The Adjutant and Inspector General, shall order out for active service, by draft or otherwise, as many of the militia as necessity demands. When an armed force is called out for the purpose of suppressing an unlawful or riotous

Duties of
militia.

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assembly, it must obey the orders in relation thereto of the civil officer calling it out and render the required aid. The orders of the civil officer may extend to a direction of the general or specific object to be accomplished and the duration of service by the active militia, but the tactical direction of the troops, the kind and extent of force to be used, and the particular means to be employed to accomplish the object specified by the civil officers, are left solely to the officers of the active militia.

When in
active service
subject to ar-
ticles of war.

Sec. 494. When the militia are ordered out, or have volunteered for, and while they are in active service, as heretofore specified, or are in camps of instruction, they shall be subject to the same rules and articles of war as troops of the United States, and during their term of service be entitled to the same pay, rations and allowances for clothing as are or may be established by law for the army of the United States. When called upon as a military organization to aid any civil officer in the execution of the laws or preservation of the peace, each officer and enlisted man of the militia so engaged shall receive the sum of one dollar and fifty cents per day and actual expenses, to be paid by the Governor through the commanding officer of the organization so ordered out.

Penalty for
not appear-
ing.

Sec. 495. Every member of the active militia ordered out who does not appear at the time and place designated by the Commander-in-Chief, or his superior officer, or who does not produce a sworn certificate of physical disability from a physician in good standing to so appear, or excuse for unavoidable absence, approved by his company, battalion and regimental commander, shall be taken to be a deserter and dealt with as prescribed by the militia laws of the State.

Uniform.

1908, XXV,
1108.

Sec. 496. The uniform of the active militia shall be the same as is now prescribed, or may hereafter be prescribed, for the army of the United States, except that the letters "U. S." on said uniforms shall be replaced by the letters "S. C."

Rules to be
prescribed by
Adjutant-
General.

Sec. 497. Each company, troop or battery commander shall render such reports of drill and other instruction and other reports and returns as may be prescribed by The Adjutant and Inspector General, which reports and returns shall be forwarded through the regular military channels to The

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Adjutant and Inspector General for file in his office. The reports of drill or other practical instructions shall be prepared and signed by their respective First Sergeants, and certified to on honor by the company commander, and shall show the number of each grade in the organization present and absent from such drill or instruction, the date of the same, and be accompanied by a list of the absentees from each drill or other instruction.

Sec. 498. A Military Board, consisting of the Governor, The Adjutant and Inspector General and three commissioned officers of the active militia, to be appointed by the Governor, shall be constituted, and whose duties shall be to apportion the annual appropriation for the support of the militia, and shall determine what organizations are entitled by law to a share in said appropriation. No company, troop, battery or band shall participate in the annual allotment of such appropriation unless the proper officers of such organization shall have duly and properly rendered all the required reports and returns for the preceding year, and unless the reports of drills and other instruction shall show that the prescribed number has been had and that there has been an average attendance of at least sixty per cent. of its enlisted strength present at such drills or other instruction, and furthermore, unless the organization participated in the required practice marches or attended the required annual camp of instruction.

Sec. 499. There shall be held once in each year an inspection of all the organizations and the military property in their possession, and all companies of infantry, cavalry and artillery having less than seventy-five per cent. of their officers and enlisted men present at such inspection, and that the same is in good condition for service, shall be disbanded.

Sec. 500. As soon as practicable after the annual inspections are completed, The Adjutant and Inspector General shall file with the Comptroller-General a certified list of all companies that have passed a satisfactory inspection, together with a certified statement, signed by a majority of the Military Board, showing how the annual appropriation has been apportioned and divided and the *pro rata* share of each company entitled thereto, whereupon the Comptroller-General shall draw his warrant in accordance with said cer-

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tified statements and forward same direct to parties entitled thereto.

Such certified statements shall show affirmatively that the respective organizations shown thereon as being entitled to a share of the annual appropriation have complied with all the requirements as to reports, returns, drills or other instruction, practice marches and encampments.

Power of
Commander-
in-Chief.

Enlistments.

Sec. 501. The Commander-in-Chief may transfer, consolidate, muster-out, disband and make such other changes in the organization of the State militia, from time to time, as the best interest of the service may require. Enlistments therein shall be for two years, and will be made by signing enlistment papers prescribed by The Adjutant and Inspector General, and by taking the following oath or affirmation, which may be administered by any commissioned officer, to wit: "I do solemnly swear (or affirm) that I will bear true allegiance to the United States and to the State of South Carolina, and that I will support the Constitution thereof; that I will serve the State of South Carolina faithfully in its military service for the term of two years, unless sooner discharged, or I cease to be a citizen thereof; that I will obey the orders of the Commander-in-Chief and such officers as may be placed over me, and the laws governing the military forces of the State of South Carolina; so help me God."

By-laws of
company.

Violation
thereof.

Sec. 502. Any company of the organized militia may, by a vote of two-thirds of its members, form by-laws, rules and regulations not inconsistent with this Chapter, for the government and improvement of its members in military science and discipline; and such by-laws, rules and regulations shall be binding; but they may be altered, from time to time, as may be found necessary. For violation of by-laws, rules and regulations of associations organized pursuant to this Chapter, enlisted men, in addition to trial by a Military Court, may also be expelled from the organizations to which they belong, by a vote of the majority of all its members, and upon such action being confirmed in orders by the commanding officers of the regiment, battalion or squadron not part of a regiment, and in case of an organization not part of a regiment, battalion or squadron, by the officer to whose command it is attached, the name of such person shall be stricken from the roll of the organization of which he

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was a member, his certificate of membership shall be surrendered and cancelled, and he shall cease to be a member thereof, and his time of service in the same shall not be allowed.

Sec. 503. Nothing in this Chapter shall be construed so as to annul, abridge, or interfere with rights or privileges granted by special Act or by charter passed previously for the benefit of any organization now in existence: *Provided*, That any companies which have been disbanded, or may be hereafter disbanded, shall not be entitled to enjoy any military rights granted by charter or Act of incorporation. And all Acts or parts of Acts granting such military rights to companies so disbanded are hereby repealed.

Special charters.

Sec. 504. The rules and articles of war, and general regulations for the government of the army of the United States, so far as are applicable and are not inconsistent with the Constitution and laws of this State, shall apply to the government of the organized militia of this State; but no punishment under such rules and articles, which shall extend to the taking of life, shall in any case be inflicted, except in time of actual war, invasion or insurrection, declared by proclamation of the Governor to exist, and then only on the approval, by the Commander-in-Chief, of the sentence inflicting such punishment.

Rules of government.

Sec. 505. Any commissioned officer shall have authority to administer oaths to military persons, when such may be necessary; and the same penalties shall attach to false swearing in such cases as are now provided by law in case of perjury.

Officers may administer oaths.

Sec. 506. No officer or enlisted man shall be arrested by the civil authorities, except for treason, felony, or breach of the peace, while going to or returning from, or attending upon, any military duty, court martial or court of inquiry which it is his duty to attend.

Exemption from arrest.

Sec. 507. The word company, as used in this Chapter, shall be understood to include a troop, battery, detachment of the Hospital Corps, or a band, and the word officer shall be understood to include commissioned officers only.

"Company" defined.

Sec. 508. All officers who are now or may hereafter become responsible for arms, uniforms, equipments, supplies or funds, either belonging to the State or furnished

Bonds of officers.

1908, XXV, 1104.

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by the Government of the United States for the use of the militia of this State, shall furnish a good and sufficient bond for one thousand dollars, that the said arms, uniforms, equipments, supplies or funds will be properly and duly expended or cared for as required by law, order or regulations, and that all such property and funds will be duly and properly accounted for and transferred to their successors whenever the said officer may in any manner be relieved from said responsibility: *Provided*, That all companies now in service of the State shall, on or before July 1, 1905, furnish and maintain an armory suitable for the safe-keeping of arms, uniforms and equipments, issued to such company, and no company shall hereafter be mustered into service unless it shall have secured such armory, or the establishment of such armory be guaranteed. No company shall be equipped until such armory is provided; and any company failing to comply with the provisions of this Section shall be disbanded.

Naval militia.

1908, XXV,
1105.

Sec. 509. There shall be allowed, in addition to the companies of the National Guard of the State of South Carolina, as now provided by law, not more than four companies of naval militia which shall constitute a battalion, to be known as the Naval Battalion of the National Guard of South Carolina.

The organization, armament and discipline of the Naval Battalion of the National Guard of South Carolina shall be the same which is now or may be hereafter prescribed by the United States Navy Department, and it shall be the duty of the Commander-in-Chief to make and publish such orders as may be necessary to conform said Naval Battalion of the National Guard of South Carolina in organization, armament and discipline to that prescribed by the Navy Department of the United States, and such orders when duly made and published shall have the force and effect of law.

ARTICLE II.

THE ADJUTANT AND INSPECTOR GENERAL.

Sec.

510. The Adjutant and Inspector-General; compensation.

511. Vacancy in his office.

512. His annual report.

Sec.

513. His duty.

514. Assistant to The Adjutant-General.

515. Rules.

Section 510. The Adjutant and Inspector General, ^{Adjutant and Inspector-General.} elected by the qualified electors of this State, at the same time and in the same manner and for the same term of office as the other State officers. His compensation shall be nineteen hundred dollars per annum, and his rank that of Brigadier-General. ^{Compensation.}

Sec. 511. If a vacancy occur in the office of The Adjutant and Inspector General, whether from death, resignation, disqualification, or other cause, the Governor has the power to appoint some suitable person, who, on being duly qualified according to law, shall be entitled to enter upon and hold the office for the unexpired term of the former incumbent, and shall be subject to all the duties and liabilities incident to the office, and receive the compensation provided by law for The Adjutant and Inspector General during his term of service.

Sec. 512. The Adjutant and Inspector General shall ^{Annual report of Adjutant-General.} report annually to the Commander-in-Chief:

1. A statement of all moneys received or disbursed by him since his last report.

2. The number, condition and organization of the militia of the State.

3. Any suggestion which he may deem of importance to the military interest and condition of the State, and the perfection of its military organization.

The said annual report shall be printed and laid before the Legislature for its information. The Commander-in-Chief may require special reports from The Adjutant and Inspector General at any time, upon any matter connected with the duties of his office, or with the military service of the State.

Sec. 513. It shall be his duty:

^{His duty.}

1. To keep on file in his office all rolls, returns and reports

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made to him, and records of all orders, letters or other official papers issued from his office.

2. To authenticate with his official seal all papers issued from his office, which by law may require authentication under such seal.

3. To keep an account of all moneys received or disbursed by him.

4. To issue all orders of the Commander-in-Chief relating to the militia and to keep a record thereof.

Field service of instruction.

5. In order that the National Guard of the State may receive the benefit of the funds provided by Congress, it shall be the duty of The Adjutant-General of the State to submit a plan of proposed field or camp service of instruction for the ensuing year, with an estimate of funds required for payment, subsistence and transportation of the portion of the National Guard participating therein, said estimate to furnish the details and to be made out in the form required by instructions from the Secretary of War.

Preservation of property.

6. He shall make such regulations pertaining to the preparation of reports and returns and to the care and preservation of property for military purposes, whether belonging to the State or to the United States, as in his opinion the conditions demand; such regulations to be operative and in force when promulgated in the form of general orders, circulars or letters of instructions.

Other duties.

7. He will perform such duties as pertain to The Adjutant-General and the other chiefs of staff departments, under the regulations and customs of the United States Army. He will superintend the preparation of all returns and reports required by the United States from the State, and will perform all the duties prescribed for him in this "Military Code."

Printed forms.

8. He shall have the necessary forms prepared, printed and distributed to the commissioned officers of the organized militia. He shall also have the militia laws, and such forms, and so much of the rules and articles of war for the government of the United States Army as he may decide are applicable, published, and a copy thereof sent to each commissioned officer, which shall be held by him as property of the State and delivered to his successors in office.

Sec. 514. There shall be an Adjutant-General with the rank of Colonel, who shall be assistant to The Adjutant-General, and who shall be appointed and commissioned by

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the Governor upon the recommendation of The Adjutant-General, and whose salary shall be thirteen hundred and fifty dollars. The assistant to The Adjutant-General shall aid The Adjutant-General by the performance of such duties as may be assigned to him, and shall, in case of absence or inability of The Adjutant-General, perform all or such portion of the duties of The Adjutant-General as he latter may expressly delegate to him.

Assistant to
the Adjutant-
General.1910, XXVI,
610.

Sec. 515. The Adjutant and Inspector General, with the approval of the Commander-in-Chief, is hereby authorized to make such rules and regulations from time to time as he may deem expedient, and when promulgated shall have full force and effect as the militia laws of the State. But the rules and regulations in force at the time of the passage of this Act shall remain in force until new rules and regulations are approved and promulgated.

ARTICLE III.

THE QUARTERMASTER-GENERAL.

Sec.

516. Duty of Quartermaster-General.

517. Disbursing officer of United States funds.

Sec.

518. Annual statement.

519. To appoint an armorer.

520. Purchase of material.

Section 516. The Quartermaster-General shall attend to the care, preservation, and safe-keeping and repairing of the arms, ordnance, accoutrements, equipments and all other military property belonging to the State, or issued to the State by the government of the United States for the purpose of arming and equipping the organized militia. All military property of the State which, after a proper inspection, shall be found unsuitable for the use of the State, shall, under the direction of the Governor, be disposed of by the Quartermaster-General at public auction, after suitable advertisement of the sale, daily for ten days, in at least one newspaper, published in the English language, in the city or County where the sale is to take place; or the same may be sold at private sale when so ordered by the Governor. He

Quartermas-
ter-General.

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shall bid in the property or suspend the sale whenever, in his opinion, better prices may or should be obtained. He shall, from time to time, render to the Governor, a just and true account of the sales made by him, and shall expend the proceeds of the same in the purchase of other military property, as the Governor may direct. He shall be responsible for all the arms, ordnance, accoutrements, equipments and other military property which may be issued to the State by the Secretary of War in compliance with law, and it shall thereafter be his duty to prepare returns of said arms and other property of the United States at the times and in the manner regulated by the Secretary of War.

Shall deliver
to Ordnance
Department
arms, etc.
Accounts.

He shall, upon the order of the Governor, turn into the Ordnance Department of the United States Army the rifles, carbines, bayonets, bayonet scabbards, gun slings, belts and such other necessary accoutrements and equipments, the property of the United States, and now in possession of the State, which may be replaced from time to time, by new arms, equipments, etc., sent by the United States in substitution therefor, and cause the same to be shipped, under instructions from the Secretary of War, to the designated arsenal or depot at the expense of the United States. And when the National Guard of the State shall be fully armed and equipped with standard service magazine arms, and the standard equipment and accoutrements of the United States Army, he shall cause all the remaining arms, equipments, etc., the property of the United States and in possession of the State, to be transferred and shipped as above directed.

He shall keep a just and true account of all expenses necessarily incurred, including pay of officers and enlisted men, subsistence of militia, transportation of the militia and of all military property of the State, and such expenses shall be audited and paid in the same manner as other military accounts are audited and paid.

He shall issue such military property as the Governor shall direct, and under his direction make purchases for that purpose. No military property shall be issued to persons or organizations other than those belonging to the active militia, except to such portions of the reserve militia as may be called out by the Governor.

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Sec. 517. The Quartermaster-General, or other officer detailed by the Commander-in-Chief, shall act as disbursing officer of the funds allotted by the United States for the support or use of the militia of this State. He shall receipt to the proper officer of the United States for all such funds and shall expend the same under the orders of the Commander-in-Chief, in accordance with the laws of the United States. He shall render such reports and returns of such funds as may be required by the proper authorities of the United States and shall make an annual report of the expenditures to the Commander-in-Chief.

Disbursing
officer of U.
S. funds.

Sec. 518. He shall render annually to the Governor a statement in detail showing the disposition of all clothing, ordnance, arms, ammunition and other military property on hand or issued.

Annual
statement.

Sec. 519. He shall appoint an Armorer, who shall take charge of the State Armory, and keep in order all the arms and ammunition therein, and whose salary shall be five hundred dollars per annum. The Armorer shall be required to work daily upon the public property in the State Arsenal or elsewhere, and shall be authorized to call for and obtain convict labor from the State Penitentiary to work at the said Arsenal whenever necessary, or to employ such labor at the Penitentiary in doing work on the State arms and equipments. The Armorer shall be responsible for the State property in the Arsenal, and shall keep an account of the same, and of all receipts and issues.

Armorer.

Sec. 520. He, with the consent of the Governor, shall have authority to purchase any material or parts of arms or equipments which may be necessary to repair any of the State arms or equipments or of the United States supplied for the use of the militia rendered unserviceable by breakage or wear; and all bills for such shall be paid by the State Treasurer, on the warrant of the Comptroller-General, out of any funds applicable thereto, and he may also sell or exchange any military property of the State for the purpose of obtaining other arms, equipments or munitions more suitable to the wants of the militia.

Purchase of
material.

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ARTICLE IV.

ORGANIZATION OF THE NATIONAL GUARD OF THE STATE.

Sec.

521. Organization of the National Guard.

522. Military organization.

523. Organization of National Guard.

Sec.

524. Commander-in-Chief to publish orders as to organization.

Organization
of the Na-
tional Guard.

Section 521. The National Guard of the State shall consist of the Commander-in-Chief and his staff, one Brigadier-General and his staff, to be hereafter specified, and such companies, battalions and regiments of infantry, such troops of cavalry, and batteries of artillery, as may be prescribed by the Commander-in-Chief, not to exceed in all two thousand five hundred officers and men: *Provided*, That the Governor shall, on or before June 30, 1905, disband a sufficient number of companies of infantry and troops of cavalry, and shall muster out of service the surplus field and staff officers necessary to reduce the strength of the active militia of the State to that prescribed by this Section: *And Provided, further*, That he shall also temporarily disband a sufficient number of organizations, so that the remainder of the active militia may be thoroughly armed and equipped, as required by the War Department authorities, on or before June 30, 1905, with the funds that may be available by that time, either from the balance that may be due from the allotment from the United States, or that may be appropriated for this purpose by the General Assembly. The organizations so temporarily disbanded may be again mustered into service as soon as sufficient funds are available for thoroughly equipping them for field service, but the total strength of the active militia, as prescribed by this Section, shall not be exceeded.

Military or-
ganization.

Sec. 522. The military organization of the National Guard shall constitute a brigade, but the Governor shall have power to alter, divide, annex, consolidate, disband, or reorganize the same and create new organizations whenever, in his judgment, the efficiency of the State forces will be thereby increased, and he shall at any time have power to change the organization of regiments, battalions, squadrons, troops, batteries and companies, so as to conform to any

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organization, system of drill or instruction now or hereafter adopted by the United States Army, and for that purpose the number of officers and non-commissioned officers of any grade in regiments, battalions, squadrons, troops, batteries and companies may be increased to the extent made necessary by the new positions thus created. The Governor shall have power, in case of war, insurrection, invasion, or imminent danger thereof, to increase the force beyond the maximum now established by law, and to organize the same, with the proper officers, as the exigencies of the service may require.

Sec. 523. The organization, armament and discipline of the National Guard of South Carolina shall be the same as that which is now or may be hereafter prescribed for the regular and volunteer armies of the United States.

Organization
of National
Guard.

1908, XXV,
1105.

Sec. 524. It shall be the duty of the Commander-in-Chief to make and publish such orders as may be necessary to conform said National Guard of South Carolina in organization, armament and discipline to that prescribed for the armies of the United States; and such orders when duly made and published shall have the force and effect of law.

Commander-
in-Chief to
publish or-
ders as to or-
ganization.

1908, XXV,
1105.

ARTICLE V.

COMMISSIONED OFFICERS OF THE NATIONAL GUARD.

- Sec.**
- 525. Officers; how commissioned.
 - 526. Qualification of officers.
 - 527. Officers must pass an examination.
 - 528. Boards of Examination.
 - 529. Election of officers.
 - 530. Brigadier-General.

- Sec.**
- 531. Elections; how ordered.
 - 532. Elections; how conducted.
 - 533. Oath of office.
 - 534. Forfeiture of commission by absence.
 - 535. How officer removed.
 - 536. Retired list.

Section 525. All officers shall be commissioned by the Governor; but no one shall be commissioned unless the conditions set forth in the following Sections have been complied with, and no one shall be recognized as an officer unless he shall have been duly commissioned and shall have taken the oath of office.

Officers; how
commissioned.

Sec. 526. Commissioned officer must be citizen of the United States and of the age of eighteen years and upwards.

Qualification
of officers.

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No person who has been expelled or dishonorably discharged from any military organization of the State shall be commissioned unless he has re-enlisted and served as provided in this Chapter. No person shall be commissioned unless he shall possess the additional requirements herein prescribed for the particular office to which he is commissioned. A Brigadier-General, at the time of his appointment, must be an officer in active service in the National Guard of this State of the grade of field officer, and for five successive years immediately preceding his appointment he must have been in active service in said National Guard as a commissioned officer. A Colonel of a regiment, at the time of his appointment, must either be an officer in active service in the National Guard of this State, and for three successive years immediately preceding his appointment must have been in active service in said National Guard as a commissioned officer, or, if not in active service at the time of his appointment, must have had prior service of at least six years in the National Guard of this State, or in the army of the United States, or in both combined, as a commissioned officer. A Lieutenant-Colonel and Major of the line, at the time of his appointment, must either be an officer in active service, and for two successive years immediately preceding his appointment must have been in active service in the National Guard of this State, as a commissioned officer, or, if not in active service at the time of appointment, must have had prior service of at least six years in the National Guard of this State, or in the army of the United States, or in both combined, as a commissioned officer. Staff officers of officers below the grade of Brigadier-General, except medical officers, Veterinary Surgeons and Chaplains, must have served one year immediately preceding their appointments in the National Guard of this State. Staff officers of the Brigadier-General, except Judge Advocates and Surgeons, must be selected from the commissioned officers in active service in the National Guard of this State, who, for one year immediately preceding their appointments, have been in active service in such National Guard as commissioned officers. A Judge Advocate must be a counsellor at law of the Supreme Court of this State of at least ten years' standing if of the grade of Lieutenant-Colonel; of at least five years' standing if of the

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grade of Major. Surgeons and Assistant Surgeons must be graduates of an incorporated school of medicine, and of at least ten years' practice if of the grade of Lieutenant-Colonel; of at least five years' practice if of the grade of Major; of at least three years' practice if of the grade of Captain; and of at least two years' practice if of the grade of First Lieutenant. A Veterinary Surgeon must be a graduate of an incorporated school of veterinary science. A Chaplain must be a regularly ordained minister of some religious denomination.

Sec. 527. Before receiving a commission consequent upon an original appointment or election, or before being commissioned to a higher grade as a result of promotion, every officer must have passed a satisfactory examination before a board as to his knowledge of military affairs and general knowledge and fitness for the service, and any one failing to pass such examination shall not be eligible for an office in the militia of the State or for promotion for the period of one year from the date of such failure. The following are exempt from examination: General officers, Judge Advocates, medical officers, Veterinary Surgeons, Chaplains, and officers who immediately on the expiration of their term of office or resignation are reappointed to the position they previously held. Officers must pass an examination.

Sec. 528. Boards of examination under the preceding Section shall be appointed by the Governor or caused by him to be appointed for the National Guard by the commanding officer. Such boards shall consist of not less than three officers, and shall have the same power to take evidence, administer oaths, and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so as is possessed by a general court martial. Boards of Examination.

When returns of appointments or proceedings of election are received by a board, the persons appointed or elected shall by it be ordered before it for examination, and the result of the examination, with all the papers in the case, shall be forwarded to the officer ordering the board.

Sec. 529. The Colonels and Lieutenant-Colonels of regiments shall be elected by the field and company officers of their respective regiments. All other field officers shall be elected by the company officers of their respective organiza- Election of officers.
1910, XXVI, 611.

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tions or units. The Captains and Lieutenants of troops, batteries or companies shall be elected by the members of these organizations who shall have performed, during the period, not more than twelve months immediately preceding the election, at least 60 per cent. of the duty required of them, and who shall not be indebted at the time to the civil association of such troops, battery, or company, organized as provided in this Chapter.

Brigadier-General.

1910, XXVI,
612.

Sec. 530. The Brigadier-General shall be appointed by the Governor, upon the recommendation of the majority of the field officers of the National Guard. The extra officers allowed to regiments, battalions and squadrons for staff duty, and chaplains, shall be appointed by the Governor, upon recommendation of their immediate commanding officers.

Elections;
how ordered.

Sec. 531. The commanding officer of the brigade shall issue the orders for the election of Colonels and Lieutenant-Colonels of regiments, for the Majors of separate battalions and squadrons, and also for the election of the Captains and Lieutenants of separate troops, batteries or companies.

Colonels of regiments shall issue the orders for the election of all officers of their respective regiments. The Majors of separate battalions or squadrons shall issue the orders for the election of the company officers of their respective organizations.

Elections;
how conduct-
ed.

Sec. 532. The ballots for the election of the field officers will be forwarded on the date specified in the order for the election, by mail, to the officer ordering the election, and at the same time a copy of the said ballot shall be mailed direct to The Adjutant and Inspector General. For the election of the company officers three managers of election shall be appointed by the company commander, who shall be duly sworn to perform the duty of managers of said election without partiality, favor or affection. The said managers shall open the polls at the designated time and place specified in the order for the election, and as soon as all the electors have cast their votes, or at the expiration of one hour from the opening of the polls, they shall at once publicly canvass the votes and declare the result of the election. A majority of the votes of all persons present voting at an election shall be necessary for a choice. The returns of said

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election, duly signed and sealed by the managers, together with the ballots and tally sheets, shall be mailed to the officer ordering the election, who will, five days from the receipt of the returns, announce in general orders the result of said election, and who shall also forward the ballots and tally sheets to The Adjutant and Inspector General. Any contest or protest as to any election must be made within five days from the day of election to The Adjutant and Inspector General, whose decision in such cases, when approved by the Governor, shall be final.

Sec. 533. Every officer duly commissioned shall, upon the receipt of his commission, take and subscribe the constitutional oath of office. Such oath shall be taken and subscribed before any civil officer authorized by law to administer oaths, or before any commissioned officer of the National Guard of this State. Oath of office.

Sec. 534. Any officer who shall have been absent without leave for a period of six months or more, or any officer who shall move beyond the confines of the State and remain absent therefrom for a like period, shall forfeit his commission. Forfeiture of commission by absence.

Sec. 535. A commissioned officer can not be removed from office without his consent, except by the Senate, upon the recommendation of the Governor, or the sentence of a general court-martial: *Provided*, That as soon as practicable after the adoption of this Code elections shall be ordered for the election of all elective officers as herein prescribed, and that thereafter no election shall be ordered unless for the purpose of filling an existing vacancy except upon petition, stating good and sufficient grounds for the necessity for a change, signed by at least a majority of those qualified to vote at the election: *Provided*, That any commissioned officer who has become or who shall become unfit or incompetent, and therefore incapable of performing the duties of his office, shall, upon the recommendation of his commanding officer, be ordered before a board of officers convened by the Governor, whose duty it shall be to determine the facts as to the nature and cause of incapacity of such officer and to report their finding in the case to the Governor, stating cause of incapacity, unfitness or incompetency, if such be proved to exist, and if he approves How officer removed.
1908, XXV,
1106.

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such finding, said officer shall be discharged from the service.

Retired list.

1908, XXV,
1107.

Sec. 536. Any officer of the National Guard who shall have served as such for a continuous period of ten years may, upon his own request, be placed upon the retired list and withdrawn from active service and command by the Governor; and any officer who shall have served as such for the continuous period of twenty years may, upon his own request, be placed upon the retired list with rank one grade higher than the rank held by him on date of retirement, and shall be withdrawn from active service and command.

ARTICLE VI.

ENLISTED MEN OF THE NATIONAL GUARD.

Sec.

- 537. Who may enlist.
- 538. Re-enlistment.
- 539. Regulations as to enlistments.
- 540. Physical examination of persons enlisting.
- 541. Transfers of enlisted men.
- 542. Non-commissioned officers.

Sec.

- 543. Reduction to ranks.
- 544. Dropping of enlisted men.
- 545. Enlisted men to serve until discharged.
- 546. Discharges; honorable and dishonorable.

Who may
enlist.

Section 537. Any man who is a citizen of the United States, or has declared his intention to become a citizen, if more than eighteen and less than forty-five years of age, able-bodied, free from disease, of good character and temperate habits, may be enlisted in the National Guard of the State, under the restrictions of this Article, for a term of not less than two years; except that men may be enlisted as musicians if more than sixteen years of age. No minor shall be enlisted without the written consent of his parent or guardian. A man who has been expelled or dishonorably discharged from any military organization of the State or United States shall not be eligible for enlistment or re-enlistment unless he produce the written consent to such enlistment of the commanding officer of the organization from which he was expelled or dishonorably discharged, and of the commanding officer who approved such expulsion or issued such dishonorable discharge. Men who have been

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discharged by reason of disbandment may be enlisted, and shall then receive credit for the period served at the time of such disbandment. A man discharged for physical disability shall, if such disability cease, and he again enlists, or a man discharged upon his own request, shall, if he again enlist, receive credit for the period served prior to such discharge: *Provided*, That in order to make such service continuous, for computing continuous service pay, he shall have again enlisted within three months after his discharge. Bandmasters, Drum Majors, Chief Trumpeters, Veterinary Surgeons, members of the hospital corps and musicians may be enlisted as such.

Sec. 538. Any man who has served the period of his original enlistment may be re-enlisted for a like term of two years. No man above the age of forty-five years shall be re-enlisted except by permission of the commanding officer of the regiment to which the organization is attached, or in case of separate battalions, squadrons or companies, by the commanding officer thereof. Re-enlistment.

Sec. 539. Every person who enlists or re-enlists shall sign and make the oath prescribed in Section 501 of this Code, but no enlistment shall be valid unless it be approved by the commanding officer of the organization to which the troop, battery or company is attached, or of which it forms a part. A person making a false oath as to any statement contained in such enlistment paper shall, upon conviction, be deemed guilty of perjury. Muster-in rolls and enlistment papers shall be made in triplicate, one of which shall be retained at headquarters of the regiment. The original shall be forwarded to the office of The Adjutant and Inspector General within ten days from any muster or enlistment of men, and one copy shall be retained by the company commander. Regulations as to enlistments.
1908, XXV, 1107.

Sec. 540. Every person who shall enlist or re-enlist shall be examined physically by a surgeon or assistant surgeon of the National Guard, or, where the services of same are not available, by a competent civilian physician, such examination to be in accordance with the "Instructions for the guidance of medical officers in the physical examination of applicants for enlistment in the National Guard," authorized, or that may be authorized, by the War Department. Physical examination of persons enlisting.
1908, XXV, 1107.

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Transfers of
enlisted men.

Sec. 541. Enlisted men may be transferred upon their own application in the same regiment or battalion or squadron, not part of a regiment, from one company or troop to another, by the commanding officer of such regiment, battalion or squadron from one regiment, battalion or squadron not part of a regiment, separate troop, battery or separate company to another in the brigade, by the commanding officer of the brigade. Non-commissioned officers must be returned to the ranks before they can be transferred.

Non-commissioned
officers.

Sec. 542. Commanding officers of regiments and of battalions and squadrons not part of regiments, shall appoint and warrant the non-commissioned staff officers of their respective regiments, battalions or squadrons, and they shall, in their discretion, warrant the non-commissioned officers of the troops, batteries and companies of their respective regiments, battalions and squadrons from the members thereof, upon the written nomination of the commanding officers of the troops, batteries and companies, respectively. In troops, batteries and companies not part of a regiment, battalion or squadron, the non-commissioned officers shall be warranted by the commanding officer of the brigade, in his discretion, from the members thereof, upon the written nomination of the commanding officer of the troop, battery or company.

Reduction
to ranks.

Sec. 543. The officer warranting a non-commissioned officer shall have power to reduce to the ranks, upon the recommendation of the company commander, for good and sufficient reasons, the non-commissioned officers named in this Section; but such as were enlisted as non-commissioned officers shall be discharged. Non-commissioned officers who shall be dropped vacate their positions.

Dropping of
enlisted men.

Sec. 544. An enlisted man who shall remove his residence to such distance from the armory of his organization as to render it impracticable for him to perform his duties properly, or who, after due diligence, cannot be found, or who shall be convicted of a felony, or who shall be expelled from his organization in accordance with by-laws lawfully adopted, may be dropped from the rolls of his company, battery or troop, by order of the commanding officer of the brigade, regiment, battalion or squadron not part of a regiment.

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Sec. 545. All enlisted men of the organized militia shall be held to service in their several companies, battalions or regiments until they shall have been regularly discharged. No discharge shall be ordered prior to expiration of term of service unless for good cause, approved by the battalion and regimental commander, or, in case of unattached companies, by the brigade commander, and no member of any company shall be discharged from service until he has obtained the certificate of the commanding officer of his company that he has turned over, or satisfactorily accounted for, all property issued and charged to him. Discharges shall be signed by company commanders and approved by regimental commanders, or by the brigade commander, in case of companies not a part of any regiment.

Enlisted men
to serve until
discharged.

Sec. 546. An enlisted man who has not returned all the public property for which he is responsible, or has not paid all his dues, shall, under no circumstances, receive an honorable discharge. A discharge, or an honorable discharge, at the discretion of the officer discharging him, shall be granted to the following: A non-commissioned staff officer or a non-commissioned officer, who, had he not been enlisted as such, would be reduced to ranks; an enlisted man, at his own request, provided he assign sufficient and valid reason for such request; an enlisted man, who, by reason of disability, is no longer able to perform his military duties properly; an enlisted man, who, by the reduction of his regiment, battalion or squadron, has become surplus, or whose troop, battery or company shall be disbanded; an enlisted man who has served the time for which he enlisted or re-enlisted; an enlisted man who continues in service after the expiration of his term of enlistment or re-enlistment, shall, in case he desires a discharge, give fifteen days' notice of application therefor to the officer authorized to grant the same, and such officer may, in his discretion, grant such discharge forthwith or hold the same until the expiration of the said fifteen days. An enlisted man shall be held for service until his discharge is granted and issued. Dishonorable discharges shall be given to the following: An enlisted man, fined by any military court, who shall neglect or refuse to pay such fine within thirty days after it was imposed; an enlisted man whose immediate commander

Discharges;
honorable and
dishonorable.

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applies to have him discharged for the good of the service, after giving him ten days' notice of such application and an opportunity to be heard in defense of his conduct. The discharges mentioned above shall be granted by the commanding officer of the regiment; in the case of separate troops, batteries and separate companies, by the commanding officer of the brigade. Enlisted men may be dishonorably discharged pursuant to the sentence of a general court-martial.

ARTICLE VII.

SOUTH CAROLINA NATIONAL GUARD IN THE CITY OF CHARLESTON.

Sec.

547. Militia in City of Charleston.

Sec.

548. Annual tax.

Militia in City of Charleston. Section 547. The corporations heretofore known as the "Board of Field Officers of the Fourth Brigade, South Carolina Militia," and subsequently as the "Board of Field Officers, Fourth Brigade, South Carolina Volunteer Troops," and subsequently thereto as "The Board of Officers of South Carolina Volunteer Troops in the City of Charleston," shall hereafter be known and styled "The Board of Officers of South Carolina National Guard in the City of Charleston;" and shall consist of the Colonel or other officer in the city of Charleston commanding the troops hereafter mentioned and the commanding officers of the following companies now forming a part of the National Guard of the State of South Carolina within the limits of the city of Charleston, to wit: The German Fusileers, Irish Volunteers, Washington Light Infantry, German Artillery, Lafayette Artillery, Sumter Guards and Palmetto Guard, and of such one or more of them as shall continue to exist. The said corporation so composed shall continue to be, and shall be, a body politic and corporate, for the purpose of holding all property, both real and personal, now owned or hereafter to be acquired by the said corporation, for the benefit of the companies hereinbefore designated. The said corporation, so composed, shall continue to take, purchase and hold prop-

Board of Officers of S. C. National Guard in the City of Charleston.

erty, both real and personal, for the benefit of the companies hereinbefore designated, and the same to pledge, sell and transfer, from time to time, on such terms and under such conditions, and subject to such regulations as may be prescribed by said corporation. That all of the property, real and personal, choses in action and assets of the corporation created by the Act of January 4, 1894, and its predecessors, is hereby vested in the corporation hereby created as the successor of the said several corporations: *Provided, however,* That the property known as Marion Square, otherwise called the Citadel Green, now vested in said corporation as constituted by this Article, shall forever be kept by it as a place for the military exercises of the companies hereinbefore designated: *And Provided, further,* That the corps of cadets of the State Military Academy shall have the right to use the said Marion Square, otherwise called the Citadel Green, as a place for military exercises and recreation, under such regulations as may be prescribed by the Board of Visitors thereof. The said corporation, hereby created, shall have a common seal, and shall have the right to sue and be sued in the Courts of this State. The said corporation, hereby constituted, is hereby declared, recognized and confirmed as the successor of the original corporators; and all acts done by them, or by any persons heretofore acting as successors of said original corporators in their corporate capacity as field officers of the Fourth Brigade, in their said several corporate capacities, are hereby confirmed.

Sec. 548. The County Board of Commissioners of Charleston County are hereby authorized and directed to levy an annual tax of one-eighth of one mill on all the taxable property in the city of Charleston, the same to be collected by the County Treasurer of Charleston County for the benefit of and to be paid over to the Board of Officers of South Carolina National Guard in the city of Charleston. The funds arising from the said levy shall be distributed by the said board among the companies of the said South Carolina National Guard in the city of Charleston and the Charleston Light Dragoons, in proportion to the average attendance at such drills and parades as may be designated by the said board. The moneys thus appropriated shall be expended by said companies only for the purchase of arms,

Annual tax.

ammunition, equipments and uniforms, for such other expenses as may be necessary for the military efficiency of the said companies; and the company commander shall, on the fifteenth day of September of each year, make a full report of the said expenditures to the commanding officer of the said South Carolina National Guard in the city of Charleston, who shall forward the same to The Adjutant and Inspector General: *Provided*, That one-tenth of the amount collected by the said levy shall be paid by the board to the commanding officer of the colored troops in the city of Charleston, to be by him distributed to the companies of his command in the city of Charleston.

ARTICLE VIII.

ARMS, PARADES, DRILLS, ETC.

Sec.

- 549. Arms, uniforms and equipment.
- 550. Disposition of arms.
- 551. Unlawfully disposing of property.
- 552. Fraudulent disposition of property. Unlawfully wearing insignia of office.

Sec.

- 553. Liability of officer for property.
- 554. Drills and parades.
- 555. Failure to appear.
- 556. Commanding officer may cause arrest.
- 557. To order meetings.
- 558. Militia to pass tollgates free.

Arms, uniforms and equipment.

Section 549. Each regularly organized company of the militia shall be furnished by the State with such arms, uniforms and equipments as are required, upon the written requisition of the commanding officers of such companies, respectively, approved by the regimental commander. The arms and equipments so furnished to any organization of militia shall continue to be the property of the State, or of the United States, to be used for military purposes only, and shall be returned whenever called for by proper authority. It shall be unlawful, and it is hereby forbidden, for any officer of the National Guard, or other person responsible for arms, equipments or other military property, to loan the same under any circumstances whatsoever: *Provided*, That upon the written order of the Governor such property may be, in cases of extreme emergency, temporarily loaned or issued.

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Sec. 550. Any officer who shall receive, according to the provisions of this Article, any arms, equipments, or other military property from the State, shall distribute the same to his command as he may deem proper, taking vouchers therefor. All property so distributed shall remain in the armory of the command, and shall not be removed therefrom except by the permission of the commanding officer. Every officer or enlisted man, of any company of the militia, to whom any arms, equipments or other military property shall be so delivered, shall be held personally responsible for its care, safe-keeping and return. He shall use the same for military drills, parades and musters only; and upon receiving a discharge, or otherwise leaving the military service, or upon the demand of his commanding officer, he shall forthwith surrender and deliver up the said arms and equipments, together with all other military property that may be in his possession, to the said commanding officer, in as good order and condition as the same were at the time he received them, reasonable use and ordinary wear thereof excepted.

Disposition of arms.

Sec. 551. Any officer or enlisted man who shall, contrary to the lawful order of the proper officer, retain in his possession or control any arms, equipments or other article of military property belonging to the State or the United States, or who shall wilfully or maliciously destroy or injure any such property, or who shall, when not on duty, use or wear any such property without permission of his commanding officer, shall be tried therefor by a Magistrate, and upon conviction shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days. Whenever such military property shall be found in the custody or possession of other persons, without right, any officer shall take possession of the same.

Unlawfully disposing of property.

Penalty.

See Criminal Code, Section 198.

Sec. 552. Any person who shall secrete, sell, dispose of, offer for sale, purchase, retain after demand made by a commissioned officer of the National Guard, or in any manner pawn or pledge any arms, uniforms, equipments, or other military property, issued under the provisions of this Chapter, and any person who shall wear any uniform, or any device, strap, knot, or insignia of any design or character used as a designation of grade, rank or office, such as are by

Frandulent disposition of property.

Unlawfully wearing insignia of office.

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law or by general regulation, duly promulgated, prescribed for the use of the active militia or similar thereto, except members of the Army and Navy of the United States and the National Guard of this or any other State, shall be tried therefor by a Magistrate, and upon conviction thereof shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days. All money recovered by any action or proceeding under this or the preceding Section shall be paid to The Adjutant and Inspector General, who shall apply the same to the use of the active militia.

See Criminal Code, Section 199.

Liability of
officer for
property.

Sec. 553. Any officer receiving public property for military use shall be accountable for the articles so received by him, and shall not be discharged or allowed to resign from the service until he has returned to The Adjutant and Inspector General a receipt from his successor in command, or a proper accounting officer, for the articles issued to him, in good order and condition, or has shown to The Adjutant and Inspector General, by satisfactory proof or by action of a Board of Survey, that any article not so accounted for has been properly expended in the service, or injured, lost or destroyed without any fault or neglect on his part; or if lost or wilfully injured or destroyed through the misconduct of any person, that reasonable efforts have been made by him to recover or prosecute for the same. In addition he shall be liable to make good to the State, or United States, all such property so injured, lost or destroyed by any neglect or default on his part, and for the recovery of which he has made no reasonable effort.

Drills and
parades.

Sec. 554. Regimental, brigade and battalion commanders may order out their respective commands, or any part of them, for parade, drill, review or inspection, at such times and places as they may deem most convenient. The Commander-in-Chief may order reviews or encampments of such portions of the militia at such times and places as he shall deem proper. Each company, battery or troop, composing the active militia shall be required to assemble for drill and instruction at their respective armories or other rendezvous, or for target practice, not less than twenty-four (24) times during each calendar year, and that in addition thereto each of the said organizations shall participate in practice

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marches or attend camps of instruction for at least five consecutive days: *Provided*, That the Commander-in-Chief may excuse, for good and valid reasons, any organization from participating in said practice marches, or from attending said camps of instruction.

Sec. 555. No officer or enlisted man shall fail in repairing at the time fixed to the place of parade, drill or other rendezvous appointed by his commanding officer, if not prevented by sickness or some other evident necessity, or shall go from the said place or rendezvous without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished, according to the nature of his offense, by the sentence of a court martial.

Failure to appear.

Sec. 556. The commanding officer, upon any occasion of duty, may place in arrest during the continuance thereof any person who shall trespass upon the camp ground, parade ground, armory or other place devoted to such duty, or shall in any way or manner interrupt or molest the orderly discharge of duty by those under arms, or shall disturb or prevent the passage of troops going to or returning from any duty. He may prohibit and prevent the sale or use of all spirituous liquors, wine, ale or beer, the holding of huckster or auction sales, and all gambling within the limits of the post, camp ground, place of encampment, parade, or drill under his command, or within such limits not exceeding one mile therefrom as he may prescribe. And he may in his discretion abate as common nuisances all such sales.

Commanding officer may cause arrest.

Sec. 557. The commanding officer of any brigade, regiment, battalion or company may require the commissioned officers and non-commissioned officers of his command to meet for instruction, exercise and improvement at such times and places as he shall appoint; and he may require them to appear with such arms and accoutrements as he may prescribe; said officers shall thereupon be formed into a corps of instruction, without regard to rank, and shall be thoroughly instructed in the manual of arms, the school of the soldier and the company, and in such other theoretical and practical details as the said commanding officer shall deem proper.

To order meetings.

Sec. 558. Any person belonging to the military forces of this State, going to or returning from any parade, drill or

To pass toll-gates free.

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meeting, which he may be appointed by law to attend, shall, together with his conveyance and the military property of the State, be allowed to pass free through all tollgates and over all tollbridges and ferries.

ARTICLE IX.

MILITARY COURTS.

Sec.

- 559. Military Courts.
- 560. Exemption from action at law.
- 561. Burden of proof to defeat jurisdiction.
- 562. Neglect of duty, etc.
- 563. Who may appoint courts martial.
- 564. Sentence.
- 565. Courts of inquiry.
- 566. Trials of enlisted men.
- 567. Proceedings of courts martial.
- 568. President thereof.

Sec.

- 569. Preservation of order.
- 570. May summon witnesses.
- 571. Marshals.
- 572. Powers of magistrates.
- 573. Papers to be served by civil officers.
- 574. Fees therefor.
- 575. Fines and penalties.
- 576. Power to arrest.
- 577. Matters not herein provided for.

Military
Courts.

Section 559. The Military Courts of the State shall be:

1. General courts martial.
2. Regimental courts martial.
3. The summary court.
4. Courts of inquiry.

The constitution and jurisdiction of courts martial, the form and manner in which the proceedings of military courts shall be conducted and recorded, and the forms of oaths and affirmations taken in the administration of military law by such courts, the limits of punishment and the proceeding in revision shall be governed by the Articles of War and the law and procedure of the courts martial of the United States, except as hereinafter modified. No officer or enlisted man shall be tried except on written charges and specifications. The arraignment of the accused, the proceedings, trial and record, shall, in all respects, conform to the forms and requirements of the United States law and practice of courts martial, except as herein otherwise provided.

Exemption
from action
at law.

Sec. 560. No action or proceeding shall be prosecuted or maintained against a member of a military court, or

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officer or person acting under its authority or reviewing its proceedings, on account of the approval or imposition or execution of any sentence, or the imposition or collection of fine or penalty, or the execution of any warrant, writ, executions, process or mandate of a military court.

Sec. 561. The jurisdiction of the courts and boards established by this Chapter shall be presumed, and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding. Burden of proof to defeat jurisdiction.

Sec. 562. An officer who neglects to perform the duties of his office, or to obey the rightful orders of his superiors, or who is guilty of conduct unbecoming an officer and a gentleman, or who violates any of the provisions of this Chapter, may be put under arrest by his superior officer and tried by a court martial. Neglect of duty, etc.

Sec. 563. Regimental commanders shall have power to appoint regimental courts martial for the trial of all officers except field officers, of their respective regiments. In all cases where the regimental commander is the accuser, and for the trial of all other officers within their respective commands, the commander of the brigade shall have power to order general courts martial. In all cases where the brigade commander is the accuser, or where the regimental or brigade commander neglects or refuses to order a court martial, then the court shall be ordered by the Commander-in-Chief. For a trial of a Brigadier-General, courts martial shall be ordered by the Commander-in-Chief. Who may appoint courts martial.

Sec. 564. Courts martial may sentence an officer convicted by them to be punished according to the nature and degree of the offense, and according to military usage; but in time of peace such punishment shall not extend further than cashiering the officer convicted, and disqualifying him from holding any office in the militia of this State, and imposing a fine not exceeding one hundred dollars. Officers cashiered by sentence of a court martial shall be precluded thereby from again volunteering into the military service of the State, except the sentence be remitted by the Commander-in-Chief. Sentence.

Sec. 565. Courts of inquiry, to consist of three officers and a Judge Advocate, may be instituted by the Commander-in-Chief, or by the commanding officer of the Courts of Inquiry.

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brigade or regiment, in relation to these officers for whose trial they are authorized to appoint courts martial, for the purpose of examining into any military transaction, or the conduct of an officer, either by his own solicitation, or on a complaint or charge of improper conduct, or for the purpose of settling a military question, or for establishing good order and discipline. Such court of inquiry shall, without delay, report the evidence adduced, a statement of facts, and when required, an opinion thereon, to the officer instituting such court, who may in his discretion, thereupon appoint a court martial for the trial of the officer whose conduct shall have been inquired into.

Trials of enlisted men.

Sec. 566. Regimental commanders and Majors commanding separate battalions or squadrons may at any time appoint a summary court martial for the trial of enlisted men of their respective organizations, which courts martial shall have power to try all offenses, delinquencies and deficiencies with which enlisted men may be charged.

Proceedings of Courts-Martial.

Sec. 567. The proceedings and sentence of a court martial shall, without delay, be transmitted to the officer ordering the court, or to his successor in command, who shall, within fifteen days thereafter, approve, disapprove, commute or remit the sentence and issue his order thereon; and he shall also transmit such proceedings and sentence, with his action thereon, to The Adjutant and Inspector General, to be filed in his office.

President thereof.

Sec. 568. The President of every court martial or court of inquiry shall be the member of the court senior in rank, who, besides his duties and privileges as a member, shall be the organ of the court to keep order and conduct its business.

In his absence, the senior officer present shall preside, with all the power of the President. All the members of such court shall, when on duty, be in uniform; and the court may sit without regard to hours, and may adjourn from time to time, as may be necessary for the transaction of business.

Preservation of order.

Sec. 569. Courts martial and courts of inquiry are authorized and empowered to preserve order during their sessions; and any person or persons who shall be guilty of disorderly, contemptuous or insolent behavior in, or use any insulting or contemptuous or indecorous language or expres-

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ons to or before any such court, in open court, intending to interrupt the proceedings or to impair the respect and authority of such courts, may be committed to the jail of the county in which said courts shall sit, for a time not exceeding twelve hours, by warrant under the hand and seal of the President of such court.

Sec. 570. Courts martial and courts of inquiry shall issue subpoenas for all witnesses whose attendance at such court ^{May sum-}
may, in their opinion, be necessary in behalf of the State, ^{mon witness-}
and also, on application, for all witnesses in behalf of any officer charged or accused, or persons returned as delinquents, and may direct the commander of any company to cause such subpoena to be served on any witness by member of his company. Such court shall also have the power to administer the usual oath to witnesses, and to compel witnesses to appear and testify, by attachment, fine and imprisonment; and all Sheriffs, Jailers and Constables must execute any process issued by such courts for any of the aforesaid purposes.

Sec. 571. The President of any court martial or court of ^{Marshals.}
inquiry may appoint, under his official signature, one or more marshals, who shall execute any process lawfully issued by such President or court, and perform all acts and duties by this Article imposed on, and authorized to be performed by any Sheriff or Constable.

Sec. 572. General and regimental courts martial and ^{Powers of}
summary courts, in addition to their usual powers, shall ^{Magistrates.}
have the power to impose punishment upon members of the militia convicted by such courts, within the same limits as Magistrates now have by law.

Sec. 573. Every Marshal, Sheriff or Constable to whom ^{Papers to be}
any such warrant or execution shall be directed and deliv- ^{served by}
ered must execute the same by levying and collecting the ^{civil officers.}
fines and penalties, and make return thereof to the officer who issued the same within sixty days from the receipt of such execution or warrant, paying over the amount collected to the proper officer, in accordance with the provisions of this Article. Any Marshal, Sheriff or Constable failing or refusing to execute such execution or warrant as herein required, or to make return thereof and pay over fines so collected, shall be subject to rule and attachment from the

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Court of Common Pleas of the County wherein he resides upon motion of any attorney, or President of a court martial, or the officer ordering the same, or any other officer whose duty it is to see that such process be duly executed.

Fees therefor. **Sec. 574.** For executing process or performing any service required by the provisions of this Article, Sheriffs and Constables shall be entitled to the same fees as they are allowed by law for similar services in civil or criminal cases. Marshals, to whom an execution or warrant for the collection of fines and penalties may be directed or delivered, as provided in this Article, shall be entitled to the like fees as Sheriffs for similar services.

Fines and penalties. **Sec. 575.** All fines and penalties collected from any officer or enlisted man of a regiment shall be paid by the officer collecting the same to the commanding officer of the company to which the person so fined belonged, and shall constitute a portion of the military fund of such organization, which shall be disbursed by order of the commanding officer thereof. All fines and penalties collected from any other person shall be paid by the officer collecting the same to The Adjutant and Inspector General of the State, to be expended for the use of the militia of the State.

Power to arrest. **Sec. 576.** All commanding officers shall have power to place under arrest any officer, and order into confinement any enlisted man, who may be under their command; and persons in arrest or confinement must not bear arms during the continuance of such arrest or confinement.

Matters not herein provided for. **Sec. 577.** All matters relating to the organization, discipline and government of the National Guard, not otherwise provided for in this Act or in the general regulations, shall be decided by the custom and usage of the United States Army.

TITLE V. OF COUNTIES.

CHAPTER XVII.

Of Counties and Their Corporate Powers.

Sec.

- 578. Division of State into Counties; each County a body politic.
- 579. Abbeville County; location and boundaries.
- 580. Aiken County; location and boundaries.
- 581. Anderson County; location and boundaries.
- 582. Bamberg County; location and boundaries.
- 583. Barnwell County; location and boundaries.
- 584. Beaufort County; location and boundaries.
- 585. Berkeley County; location and boundaries.
- 586. Calhoun County; location and boundaries.
- 587. Charleston County; location and boundaries.
- 588. Cherokee County; location and boundaries.
- 589. Chester County; location and boundaries.
- 590. Chesterfield County; location and boundaries.
- 591. Clarendon County; location and boundaries.
- 592. Colleton County; location and boundaries.
- 593. Darlington County; location and boundaries.
- 594. Dillon County; location and boundaries.
- 595. Dorchester County; location and boundaries.

Sec.

- 614. Pickens County; location and boundaries.
- 615. Richland County; location and boundaries.

Sec.

- 616. Saluda County; location and boundaries.
- 617. Spartanburg County; location and boundaries.
- 618. Sumter County; location and boundaries.
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- 621. York County; location and boundaries.
- 622. Property of County.
- 623. Public officers having care of public buildings may insure the same.
- 624. County property exempt from levy and sale.
- 625. New Counties; notice of intention to form.
- 596. Edgefield County; location and boundaries.
- 597. Fairfield County; location and boundaries.
- 598. Florence County; location and boundaries.
- 599. Georgetown County; location and boundaries.
- 600. Greenville County; location and boundaries.
- 601. Greenwood County; location and boundaries.
- 602. Hampton County; location and boundaries.
- 603. Horry County; location and boundaries.
- 604. Kershaw County; location and boundaries.
- 605. Lancaster County; location and boundaries.
- 606. Laurens County; location and boundaries.

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607. Lee County; location and boundaries.

608. Lexington County; location and boundaries.

609. Marion County; location and boundaries.

610. Marlboro County; location and boundaries.

611. Newberry County; location and boundaries.

612. Oconee County; location and boundaries.

613. Orangeburg County; location and boundaries.

Sec.

626. Petition for new Counties.

627. Duty of Governor when petition is filed.

Sec.

628. A Commission to investigate who eligible.

629. Duty of Commissioners.

630. To investigate facts.

631. Election for; how ordered.

632. Election for; how conducted.

633. Result of election; how declared.

634. When the General Assembly shall establish a new County.

635. Time between elections for new Counties.

636. How Court House may be moved.

637. How County line may be changed.

638. How two Counties may consolidate.

Division of
State into
Counties;
each County
a body politic.

Civ. '02, §
529.

Section 578. The State of South Carolina is divided into forty-three judicial districts, called Counties. Each County is a body politic and corporate, for the following purposes: To sue and be sued; to purchase and hold, for the use of the County, lands and personalty within the limits thereof; to make all contracts, and to do all acts in relation to the property and concerns of the County necessary thereto.

May sue on official bond.—Greenville County v. Runlon, 9 S. C., 1; Chester v. Hemphill, 29 S. C., 584; 8 S. E., 195; Aiken Co. v. Murray, 35 S. C., 508; 14 S. E., 954. Suit on claim must be before Board of County Commissioners.—Jennings v. Abbeville County, 24 S. C., 543. When actions *ex delicto* may be sued in Court of Common Pleas.—Acker v. Anderson County, 20 S. C., 495; Jennings v. Abbeville County, 24 S. C., 543; Chick v. Newberry County, 27 S. C., 419; 3 S. E., 387; Laney v. Chesterfield County, 29 S. C., 140; 7 S. E., 56. How name pleaded.—County of Richland v. Miller, 16 S. C., 241. Judgment against Charleston County does not carry costs, under Funding Act of 1878.—Holmes v. County of Charleston, 14 S. C., 146. Account audited does not bear interest.—*Ib.*; Wheeler v. County of Newberry, 18 S. C., 135. Contracts must be made by County Commissioners alone.—Ostendorff v. County Commissioners, 14 S. C., 407; Edmondston v. County of Aiken, 14 S. C., 622; Jennings v. Abbeville County, 24 S. C., 543. No action against them without contract.—Ostendorff v. County Commissioners, 14 S. C., 407. Remedy by *mandamus*.—Wheeler v. County of Newberry, 18 S. C., 135; Duke v. County of Williamsburg, 21 S. C., 416; Hunter v. Mobley, 26 S. C., 192; 1 S. E., 670. As to County bonds.—State v. R. R., 13 S. C., 290; Duke v. County of Williamsburg, 21 S. C., 416; Lancaster v. R. R., 28 S. C., 134; 5 S. E., 338. As to line fence.—County Commissioners v. County Commissioners, 18 S. C., 598. There is no statute providing for the payment by a County in which a crime is committed of the cost and expenses of the trial therefor in another County to which the venue has been changed.—Kershaw County v. Richland County, 61 S. C., 75; 39 S. E., 263.

Sec. 579. ABBEVILLE COUNTY is bounded as follows: On the southwest by the Savannah River, by which it is separated from Georgia; on the northwest by Ander-

n County, from which it is separated by a line (the old Indian boundary) drawn from a marked black-gum, on the west bank of the Savannah River, at the foot of Grape Shoals, (north 50° east,) to a willow-oak, marked "A. & P.," on the south side of Saluda River; on the northeast by Laurens County, from which it is separated by the Saluda River, and by Greenwood County; and on the southeast by Edgefield County, from which it is divided by a line drawn from a point on the Savannah River, at the mouth of Little River, north 34° east, fourteen miles and sixty chains, and hence north 40° east to the Greenwood County line.

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Abbeville
County; loca-
tion and
boundaries.Civ. '02, §
530.

See Boundaries of Greenwood County.—Post, Section 601.

Sec. 580. AIKEN COUNTY is bounded as follows: On the northwest by Edgefield and Saluda Counties, from which it is divided by a straight line commencing at the mouth of Fox's Creek, where it empties into Savannah River, and running thence to where the south branch of Chinquepin Falls Creek (a tributary of the North Edisto River) intersects the Saluda and Lexington line; on the northeast by Lexington County, from which it is divided by said creek to where it empties into the North Fork of the Edisto River, and by the said North Fork to where the dividing line between Lexington and Orangeburg Counties (running from Big Beaver Creek to the North Fork of the Edisto) touches said river; on the southeast by Orangeburg and Barnwell Counties, from which it is divided by a straight line running by A. J. Weathersbee's old mill, thence the line established by J. Seth Mixon, Deputy Surveyor, to the Savannah River, at a point below the mouth of the Upper Three Runs Creek, said survey having been made under Act of Assembly, approved 14th March, 1874; on the southwest by Georgia, from which it is separated by the Savannah River.

Aiken Coun-
ty; location
and bounda-
ries.Civ. '02, §
581.

Sec. 581. ANDERSON COUNTY is bounded as follows: On the northwest and north by Oconee and Pickens Counties, from which it is divided by a line commencing at the mouth of Cane Creek, on Tugaloo River, and running thence to the point where Eighteen Mile Creek is crossed by the road leading from Pendleton to Hagood's Store, thence to the mouth of George's Creek, on Saluda River; on the

Anderson
County; loca-
tion and
boundaries.Civ. '02, §
582.

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northeast and east by Greenville County, from which it is separated by the Saluda River; on the southeast by Abbeville County, from which it is divided by a line drawn from a marked black gum on the east bank of the Savannah River, at the foot of Grape Shoals, to a willow oak, marked "A. and P.," on the south side of Saluda River; on the southwest by the State of Georgia, from which it is separated by the Savannah River.

Bamberg
County; loca-
tion, bounda-
ries.

Civ. '02, §
533.

Sec. 582. BAMBERG COUNTY is bounded as follows: Beginning at a point in the middle of the stream of Salkehatchie River where George's Creek enters said river, and running due north up said stream by Rush's Mill to a gum tree one and one-fourth miles above Rush's Mill; thence due north to a point in the middle of the stream of South Edisto River; thence down the middle of the stream of said river to where it enters into the Edisto River; thence down the middle of this latter river to the point where the same is intersected by the old district line dividing the County of Barnwell from the County of Colleton; thence along said dividing line to where the same intersects with Salkehatchie River; thence up the middle of the stream of said Salkehatchie River to the point of beginning, as shown by a map of said proposed County of Bamberg made by J. S. Mixon & Son, December 1st, 1896.

Barnwell
County; loca-
tion and bounda-
ries.

Civ. '02, §
534.

Sec. 583. BARNWELL COUNTY is bounded as follows: On the northwest by Aiken County, from which it is divided by a line beginning at the point upon the Savannah River, below the mouth of the Upper Three Runs Creek, as established by the survey of J. Seth Mixon, under Act approved March 14, 1874, and following said line to A. J. Weathersbee's old mill; thence to South Edisto River, in the direction of the point on the North Edisto River (mouth of Cedar Branch) where the line between Orangeburg and Lexington Counties, drawn from Big Beaver Creek, touches said river; on the northeast by Orangeburg County, from which it is separated by the South Edisto River as far down as the northwest corner of Bamberg County; on the east by the line separating it from Bamberg County; and on the southeast by the old district line, stretching from Nelson's Ferry, on the Santee River, to Matthews Bluff, on Savannah River, separating it from Hampton County; and on the

A. D. 1912.

uthwest by the State of Georgia, from which it is separated by the Savannah River.

Sec. 584. BEAUFORT COUNTY is bounded as follows: West and southwest by the State of Georgia, from which it is separated by the Savannah River; south and southeast by the Atlantic Ocean, including in the County all the islands along the coast from the mouth of the Savannah River to St. Helena Sound; northeast by Colleton County, from which it is separated by St. Helena Sound and by the Combahee and Salkehatchee Rivers; and north by the centre of the track of the Savannah and Charleston Railroad, separating it from the County of Hampton, which was formerly a part of Beaufort County.

Beaufort
County; loca-
tion and boun-
daries.

Civ. '02, §
535.

Sec. 585. BERKELEY COUNTY is bounded as follows: Eastwardly, northeastwardly and north by the Santee River, separating it from the Counties of Georgetown, Williamsburg and Clarendon; north also by Orangeburg County; west and northwestwardly by Dorchester County; south and southwestwardly by Charleston County and Dorchester County; and the said County of Berkeley shall include within its limits the whole of the subdivision formerly known as the Parishes of St. John's Berkeley, St. Stephen's, St. Thomas and St. Dennis, and parts of the subdivisions formerly known as St. James Goose Creek, St. James Santee, and St. Andrews: *Provided*, That the County lines of Berkeley County and of Orangeburg County are hereby so altered as to cut off from said Berkeley County and to transfer and annex to and incorporate within said Orangeburg County all of that certain territory or portion of Berkeley County embraced within the following lines and boundaries, to wit: Beginning at a point located on Four Holes Swamp at the intersection of the boundary lines of Orangeburg, Dorchester and Berkeley Counties, and extending in a southeasterly direction, along Four Holes Swamp, the same being the boundary between Dorchester and Berkeley Counties, to a large cypress which stands at the confluence of Four Holes and Dean Swamps, at the upper part of Turkey Lake; thence up and along the run of Dean Swamp as it meanders to a point where Dean Swamp and Black Creek unite; thence up Black Creek to the point where Big Black Creek and Little Black Creek unite; thence

Boundaries
of Berkeley
County.

Civ. '02, §
530.

A. D. 1912.

up Little Black Creek to the point where the "new road" crosses said Little Black Creek; thence northerly up the "new road" to the Monck's Corner public road, near Mr. Richardson's place; thence north ten chains to a pine; thence north 14 degrees east, thirty-eight chains to a stake; thence south 37 degrees 15 minutes east, forty-nine chains to stake; thence east 9.70 chains to a stake; thence north 39.50 chains to a stake; thence north 87 degrees east, thirty-four chains and ten links; thence north fifty-four and one half ($54\frac{1}{2}$) chains to a stake; thence north 1 degree 3 minutes west, eighteen chains and sixty links to a stake; thence north 30 degrees west, thirty-one chains to a stake; thence north 8 degrees west, eleven chains to a cypress at the river road and Rock Creek Bridge; thence northeast along Rock Creek to where Rock Creek empties into the Santee River; thence up the Santee River to the mouth of Eutaw Creek, where the Orangeburg and Berkeley lines connect; thence southwest along the boundary line between Orangeburg and Berkeley Counties to the point of beginning.

Boundaries
of Calhoun
County.

1908, XXV,
1279.

Sec. 586. CALHOUN COUNTY is bounded as follows: Starts in Lexington County on the Congaree River at a point where the land line between lands of C. M. Cremaretie and Vandy Speers strikes said river and running the land line between said parties (Cremaretie is in and Spears out of Calhoun County) crossing the State Road on this same land line, continuing straight line 125 chains to a pine on the Pine Plain Road, thence south $21\frac{1}{2}$, west $16\frac{1}{2}$ chains to pine on same road. Then south ten, west 71 chains to a stake on Nina Davis' land, then south 23, east on said line (Davis is out and Geiger in) crossing Savana Hunt Creek (Crawley out) at 45 chains to a pine, total distance 103 chains, then south 11 west to a dead pine on Pine Plain Road, distance 3 miles, south 2 east with road, 20 chains, same line 55 chains to Big Sandy Run near the south of Huckabass Mill, continuing to 1 mile, then south $36\frac{1}{2}$ west 35 chains to a pine near Pine Plain Road, south $29\frac{1}{2}$ west said road line, $23\frac{1}{2}$ chains, dead pine, then south 33 west 53 chains to pine and stake on Rast land, then south $9\frac{1}{2}$ west 11 chains pine. South 1, east straight line to Mrs. R. L. Baker's land line, then the said line to a corner near Camp Ground Road, then a straight line to Orangeburg Road near Porterfield

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ill, then a direct line to the head of Branham Branch, id branch the line to Beaver Creek, then Orangeburg and exington line, southwest to the corner of Caw Caw and Elizabeth Townships, said line southwest to the Joe Amaker d mill on Lime Stone Creek, then north 45 east to Little ime Stone, then same creek the line north to Poplar on obertson Plantation Road, then south 76° east to the Ken- erly Road, crossing the Kennerly Road one-half mile south f Moody Godwin's house, continuing the same line crossing e Columbia Road nine miles north of Orangeburg, con- nuing to the Southern Railway crossing $8\frac{1}{2}$ miles north- ast of Orangeburg Courthouse, continuing from said point n Southern Railway $8\frac{1}{2}$ miles northeast of Orangeburg ourthouse to a point on Four Hole Creek marked and esignated by an Ash Tree X and witnessed by Maple and um trees, said line having the following course: S. $49^{\circ} 00'$ E. and being about 47,550 feet, thence the creek the line to the land line of Jacob Riley, the said land line out to State Road near Fred Dantzler's, down said road to the land corner of Fred Dantzler's, then the Dantzler land line to point on Haigler land line, Haigler's land line, the line to public road, Oak X 3 N near David Smith's residence, said road the line to a branch southwest of T. V. Bair's residence, then up said branch 40 chains to stake X 3 N then northeast across A. C. L. R. R. to stake 66 feet from center of track, then up the said right of way north $57\frac{1}{2}$ west 120 chains to stake on the Orangeburg Road 66 feet from center of A. C. L. R. R. track, Orangeburg Road the line to the Monck Corner Road, then north 73° east passing at the north edge of the old Santee Grave Yard, continuing to a stake X 3 N north of C. W. Shumaker's residence, then south 67° east to a stake by road of Capt. George D. Rast's estate land, then north 79° and $45''$ east to an oak on the road near Trinity Graveyard then north 69° east to a stake on Two Chop Road by Neighborhood Road, intersecting on J. A. Johnson's land, then south Two Chop Road the line to little Poplar Creek, distance 37 chains, then down the said creek the line to McCord's Ferry Road, said road the line south 45 degrees east 209 chains to Hydrick's old mill on Big Poplar Creek, said creek the line to Santee River, up the Santee River to

A. D. 1912.

the Congaree River, up the Congaree River to commencement point.

Charleston
County; loca-
tion and boun-
daries.

Civ. '02, §
537.

Sec. 587. CHARLESTON COUNTY is bounded as follows: By a line beginning at the mouth of the South Edisto River where it empties into the Atlantic Ocean, and following up said river to the Dawho River; thence by the Dawho River to its intersection with the North Edisto River; thence by the Wadmalaw River and New Cut to Stono River; and thence up Stono River to Rantowle's Creek; thence up Rantowle's Creek to its intersection with the Colleton County line; thence along said line to the eastern bank of Ashley River; thence down said river to the line of Colleton County on said bank; thence eastward by a direct line to the mouth of Goose Creek on the western bank of Cooper River; thence southwardly along the western bank of Cooper River to the Parish of St. Philip's; thence down the Cooper River to the mouth of Wando River; thence up said Wando River to Guerin's Creek; thence up Guerin's Creek to Guerin's Bridge; thence by way of the Halfway Creek road across Halfway Creek to Thompson road and through Thompson road to the centre of Wambo Swamp; thence through the centre of said swamp to the head of Wambo Creek, and through said creek to South Santee River; thence down the South Santee River to the ocean to the line of the jurisdiction of the State; thence southwardly along the line of the jurisdiction of the State to a point opposite the mouth of South Edisto River; thence in a straight line to the beginning at the mouth of South Edisto River.

Cherokee
County; loca-
tion and boun-
daries.

Civ. '02, §
588.

Sec. 588. CHEROKEE COUNTY is bounded as follows: Beginning at the mouth of Brown's Branch and running up branch 76.60 chains to near where G. W. Webster now lives, placing him in new County; thence S. 75. W. 66.23, to rock N. E. corner lot of Pacolet Manufacturing Company, at Brown's old mill; thence N. 63. W. 15.70, with line of said company's lot to rock; thence S. 45, N. 5.73, to maple; thence same course 87 links to Pacolet River; thence with said river up stream 7.36 to stake on Pacolet; thence N. 16 W., leaving H. L. C. Murphy in old County, ——— Hammett in new County, ——— Hammett school house near cross roads in old County, Miss Mary Brown in new County, 509.80 chains to stake one mile east of town of Cow-

A. D. 1812.

ens; thence N. 24, W. 64 chains to line of Limestone Township; thence west with Limestone Township 80 chains to southwest corner of said Township; thence N. 116.80 chains with line of Limestone Township to marked line running N. 4 W.; thence N. 24 W., leaving Joel Petty and Cleveland Gossett in old County, passing through house of J. G. Powell, leaving Andy Norton in Spartanburg County, also house of Mrs. ——— Price, placing ——— Cash's house. Fate Martin in new County, passing through the store room of Finch Martin, but leaving his dwelling house in old County, leaving John Walker and Mrs. Cudd in Spartanburg County, 785.65 chains to stake on North Carolina line; thence with said line crossing Broad River, and continuing to corner of Cherokee Township, in York County; thence south with east boundary of said Township to stake; thence west to corner of said Township on King's Creek; thence down King's Creek to middle of Broad River; thence down Broad River to centre of river opposite Pacolet River; thence up Pacolet River to opposite Brown's Branch, beginning point.

Under the Act creating this County, the Courts of the Counties formerly embracing this territory lost jurisdiction over persons residing in the new County.—Riddle v. Reese, 53 S. C., 198; 31 S. E., 222.

Sec. 589. CHESTER COUNTY is bounded as follows: (On the north by a line beginning at a hickory tree, on the southwest side of the Catawba River, about ten chains above the mouth of Ferrill's Creek, and running (nearly south 80° west) by an old line, called and known by the name of the Line of the New Acquisition, to an ash and black gum, on the bank of Broad River, on Robert Elliott's lands; thence down Broad River to the mouth of Sandy River; thence in a direct line to the mouth of Rocky Creek, on the Catawba River; thence up to the Catawba River, to the place of beginning.

Chester County; location and boundaries.
Civ. '02, § 539.

Sec. 590. CHESTERFIELD COUNTY is bounded as follows: On the north by the North Carolina line; on the east by Marlboro County, from which it is separated by Great Pee Dee River; on the south by Darlington County, from which it is divided by Cedar Creek, commencing at its mouth, where it enters into the Great Pee Dee, and up said creek to the head of the southernmost branch, and thence

Chesterfield County; location and boundaries.
Civ. '02, § 540.

A. D. 1912.

Clarendon
County; loca-
tion and boun-
daries.

Civ. '02, §
541.

by a direct line (south $51^{\circ} 45'$ west) to the fork of Lynch's River; on the southwest by Kershaw and Lancaster Counties, from which it is separated by Lynch's River.

Sec. 591. CLARENDON COUNTY is bounded as follows: On the north and northwest by Sumter County, from which it is divided by the following lines: beginning at a corner on the east side of Santee River, and running thence (north 76° east) six hundred and fifty-four chains to a forked pine corner; thence (south 82° east) one hundred and four chains to a pine corner; thence (north 76° east) five hundred and twenty chains to a post on the Vance's Ferry road; thence (north 77° east) three hundred and sixty-eight chains and fifty links to a corner in Pocotaligo River; thence (north 34° east) one hundred and thirty-four chains and fifty links to a corner; thence (north 55° east) six hundred and fifty chains and fifty links to a corner in Black River; thence (north $86\frac{1}{2}^{\circ}$ east) sixty-three chains to a post on the Salem Road; thence (north 52° east) two hundred chains to a black gum corner; thence (north 55° east) four hundred and one chains to a pine corner; thence (north $58\frac{1}{2}^{\circ}$ east) one hundred and thirty-five chains to the eastern side of Dyll's Bay; thence (north 55° east) fifteen chains to Mill Bay; thence (north $57\frac{1}{2}^{\circ}$ east) ninety-four chains to two sweet gums; thence (north 55° east) forty-six chains and eighty links to Wood's Mill; thence by a straight southerly line to Hudson's Mill; thence following the Centennial road in an easterly direction until it intersects a line dividing it on the southeast from Williamsburg County, said line being the old District line running (south $22\frac{1}{2}^{\circ}$ west) until it intersects the Santee River three-quarters of a mile below Gaillard's Island; on the south and southwest by the Santee River, which divides it from Berkeley, Calhoun and Orangeburg Counties.

Colleton
County; loca-
tion and boun-
daries.

Civ. '02, §
542.

Sec. 592. COLLETON COUNTY is bounded as follows: On the northeast by Dorchester County, from which it is divided by the Edisto River down to Parker's Ferry, and by the public road running from said ferry to a public landing known as Lowndes' Landing to Rantowles Creek; on the east by Charleston County; on the southwest by Hampton County, from which it is separated by the Salkehatchie River, and by Beaufort County, from which it is separated

A. D. 1912.

by the Salkehatchie and Combahee Rivers, and by St. Helena Sound; and on the northwest by Bamberg and Orangeburg Counties, from which it is separated by the old district line drawn from Nelson's Ferry, on the Santee River, to Matthews' Bluff, on the Savannah River.

Sec. 593. DARLINGTON COUNTY is bounded as follows: On the southwest by Lynch's River and Lee County, beginning at the mouth of Little Lynch's River, thence down Lynch's River a distance of 3 miles near Kelley's Bridge $\frac{1}{4}$ of a mile south of said bridge. Thence north 42 degrees east a distance of 3 miles to Ashland Methodist Church. Thence north 22 degrees east crossing the Chesterfield Road between J. E. Woodham and J. W. Gardner 262-100 of a mile to Stuckey's gate on the Old Stage Road. Thence down said road $\frac{3}{4}$ of a mile. Thence due south 262-100 of a mile to Liberty Hill Church, at the head of Sparrow Swamp. Thence down Sparrow Swamp to a point in the Marco Mill Pond near B. A. Howls. Thence in Cypress Township south 28 degrees east $1\frac{1}{2}$ miles to Long Branch. Thence up said branch $\frac{1}{4}$ of a mile; thence south 28 degrees east $1\frac{1}{8}$ miles to Screeches Branch; thence due south 3 miles, to the Lamar Township line; thence following said line to Lynch's River; thence down said River to Sander's Bridge, thence by an air line running to the point where the Cheraw and Darlington Railroad crosses High Hill Creek, thence down High Hill Creek to its confluence with Black Creek, thence up Black Creek to Muse's Bridge, thence following the direction of a straight line running from Muse's Bridge to Cashua Ferry until Back Swamp is reached, thence down Back Swamp to Herring Creek, thence down said creek to its confluence with the Great Pee Dee River, thence up the Great Pee Dee to the mouth of Cedar Creek, thence up Cedar Creek and its southernmost branch to the head of the said branch, and thence by direct line (south $51^{\circ} 45'$ west) to the place of beginning.

Sec. 594. DILLON COUNTY is bounded as follows: Beginning at the mouth of Mill Creek, where it empties into Big Pee Dee River, and in middle of said river at said point; thence up the run of said creek to the bridge on the river road to a stake X 111 N.; thence N. 75 degrees 56 minutes E. 4,395 feet to a stake X 111 N., at the intersection of

Darlington
County; loca-
tion and bound-
aries.

Civ. '02, §
548.

Dillon Coun-
ty; location
and bounda-
ries.

A. D. 1912.

Gum Swamp and Cud Swamp; thence up the run of Cud Swamp to the public road leading from L. D. Haselden's to Sellers, to a stake near bridge; thence N. 82 degrees 47 minutes E. 3,061 feet along said road to the town limits of Sellers to a stake; thence N. 10 degrees 26 minutes W. 3,496.5 feet to a stake X; thence N. 87 degrees 43 minutes E. 2,100 feet to a stake X; thence N. 53 degrees 22 minutes E. 1,335 feet to a stake X; thence S. 56 degrees 32 minutes E. 1,107 feet to a stake X; thence N. 82 degrees 30 minutes E. 11,801 feet to a stake; thence N. 69 degrees 40 minutes E. 5,678 feet to an iron stake west side of the Marion and Latta public road near David Watson's; thence N. 88 degrees 30 minutes E. 2,305 feet to an iron stake on the public highway leading from Latta towards Marion, S. C., on the old Bryant place, the said roads being the ones heretofore referred to in the original petition setting forth the boundary lines of the proposed new county; thence S. 89 degrees 10 minutes E. 6,940 feet to a stake X; thence S. 68 degrees 27 minutes E. 4,920 feet to a stake X; thence S. 60 degrees 10 minutes E. 20,545 feet to a stake X, at east side of railroad; thence N. 51 degrees 37 minutes E. 4,242 feet to its intersection with Buck Swamp; thence down the run of Buck Swamp with its various courses and distances to its junction with Little Pee Dee River; thence a straight line N. 48 degrees 40 minutes E. 17,300 feet to a stake X 111 N.; thence a straight line S. 44 degrees 48 minutes E. 18,924 feet to a cypress tree X 3 N. at the juncture of Ash Pole Swamp and Lumber River; thence Lumber River the line to the North and South Carolina State line; thence the North and South Carolina State line the line to the point where it intersects the line between Marion and Marlboro Counties; thence the line between Marion and Marlboro Counties the line to the median line of the Great Pee Dee River; thence down the median line of said river to the beginning corner.

Dorchester
County; loca-
tion and boun-
daries.

Civ. '02. §
544.

Sec. 595. DORCHESTER COUNTY is comprised of all that territory formerly a portion of Colleton County comprised in the Townships of George, Koger, Carn, Burns, Givhans, Dorchester and that part of Collins Township in said County of Colleton lying north of the public road leading from Parker's Ferry, upon the Edisto River, to a public landing known as Lowndes Landing, upon Rantowles Creek.

A. D. 1912.

and all that portion formerly of Berkeley County included within the following lines, to wit: From the intersection of the County line between Colleton and Berkeley Counties with the run of Four Hole Creek a straight line to a point upon Saw Mill Branch one mile northeast of the South Carolina and Georgia Railroad, thence along said branch to the Colleton County line, and thence back to the starting point along the line of division between Colleton and Berkeley Counties. And is bounded northeast by Berkeley County, from which it is separated by the Four Hole Swamp from the intersection of said swamp with the old district line (drawn from Nelson's Ferry, on the Santee River, to Matthews' Bluff, on Savannah River) to the intersection of the run of said swamp with the old County line between Colleton and Berkeley Counties; and by a straight line running thence to a point upon Saw Mill Branch one mile northeast of the South Carolina and Georgia Railroad, and thence along said branch to the old division line between Colleton and Berkeley Counties; and thence by said old division line to the point where said line intersects the division line between Charleston and Berkeley Counties; on the southeast by Charleston County, from which it is separated by the old division line between Charleston and Colleton Counties to Lowndes' Landing, on Rantowles Creek; south and southwest by Colleton County, from which it is separated by the public road leading from Lowndes' Landing, on Rantowles Creek, to Parker's Ferry, on Edisto River; and thence by the said river to the intersection of said river with the old district line drawn from Nelson's Ferry, on Matthews' Bluff; and on the northwest by Orangeburg County, from which it is separated by said last mentioned district line.

Sec. 596. EDGEFIELD COUNTY is bounded as follows: On the southwest by the Savannah River, by which it is separated from the State of Georgia; on the northwest by Abbeville County, from which it is separated by a line drawn from the mouth of Little River north 34° east fourteen miles and sixty chains to a point, and thence north 40° east until it intersects the Greenwood County line; on the northeast by Greenwood and Saluda Counties; and on the southeast by Aiken County, from which it is divided by a

Edgefield
County; loca-
tion and bound-
aries.

Civ. '02, §
545.

A. D. 1912.

straight line commencing at the mouth of Fox's Creek, where it empties into Savannah River, and running thence to where the south branch of Chinquepin Falls Creek (a tributary of the North Edisto River) is intersected by the dividing line between Lexington and Saluda Counties.

For division line from Greenwood and Saluda see boundaries of those Counties in Sections 601 and 616.

Fairfield
County; loca-
tion and boun-
daries.

Civ. '02, §
546.

Sec. 597. FAIRFIELD COUNTY is bounded as follows: On the north by Chester County, from which it is divided by a line running from the mouth of Rocky Creek, on the Catawba River, to the mouth of Sandy River, on Broad River; on the west and southwest by Broad River, by which it is separated from the Counties of Union, Newberry and Lexington; on the south by Richland County, from which it is divided by Little River, from its mouth up to a point about half a mile above the plantation of Mr. Shaffer (one mile above the mouth of Shaffer's Creek), and a line running from thence in a direct course to the Round Top, near Dohertie's Mill; on the east by the Counties of Kershaw and Lancaster, from which it is divided by a line drawn from the last mentioned point, Round Top (north 18° 15' east) fourteen miles and twenty-three chains, to the intersection of Wateree River, where Cornell's Creek enters it; thence up the Wateree and Catawba Rivers as high as the mouth of Rocky Creek.

Florence
County; loca-
tion and boun-
daries.

Civ. '02, §
547.

Sec. 598. FLORENCE COUNTY is bounded by a line, beginning at Sander's Bridge, on Lynch's River, running an air line to the point where the Cheraw and Darlington Railroad crosses High Hill Creek, thence down High Hill Creek to its confluence with Black Creek, thence up Black Creek to Muse's Bridge, thence following the direction of a straight line running from Muse's Bridge to Cashua Ferry to Black Swamp, thence down Black Swamp to Herring Creek, thence down said creek to its confluence with the Great Pee Dee River, thence following the said Great Pee Dee River down to its intersection with Lynch's River, thence following said Lynch's River up to a point at and above Anderson's Bridge, thence in a straight line westward to the Williamsburg and Clarendon County line, so as to embrace twenty-eight square miles of the territory of Williamsburg County, thence following said Clarendon and

A. D. 1912.

Williamsburg County line in a southwesterly direction to its intersection with what is known as Centennial Road, thence following said road in a westerly direction to Hudson's Mill, thence running in a northerly direction a straight line to a point on the Clarendon and Sumter County line at Wood's Mill, thence following the Clarendon and Sumter County line in northeasterly direction to Lynch's River, thence following the said Lynch's River up to Sander's Bridge, the beginning corner; also the following described section of Williamsburg County, cut off from Williamsburg County, and incorporated within the County of Florence, to wit: All that portion of Lee and Lake Townships, containing nine square miles, as appears from plat made by E. J. Smith, surveyor, dated the 28th of November, 1903, beginning at a point one mile south of Anderson's Bridge, on Lynch's River, and thence running in a westerly direction through portions of Lee and Lake Townships, in the said County of Williamsburg, to the line separating the County of Williamsburg from Mott's Township, in the County of Florence.

Sec. 599. GEORGETOWN COUNTY is bounded as follows: On the north and northeast by Marion and Horry Counties, from which it is separated as follows: from Marion County by the Great Pee Dee River, from Britton's Ferry to its junction with the Little Pee Dee River; from Horry County by the Great Pee Dee River, from its junction with the Little Pee Dee to its junction with Bull Creek, and thence by said creek to Waccamaw River, and thence by said river down to a point about half a mile below Prince's Creek, and thence by a line running (north $86\frac{1}{2}^{\circ}$ east) five miles and sixty-seven chains, to a cedar post on the sea-shore, planted at low water mark; on the southeast by the Atlantic Ocean, including all the islands between the last mentioned cedar post and the mouth of South Santee River; on the south and southwest by the Counties of Charleston and Berkeley, from which it is separated by the South Santee and Santee Rivers as far up as Leneud's Ferry; on the west and northwest by Williamsburg County, from which it is divided by the main road leading from Leneud's Ferry, on the Santee River, across Potato Ferry (on Black River), to Britton's Ferry, on the Great Pee Dee.

Georgetown
County; loca-
tion and boun-
daries.Civ. '02, §
548.

A. D. 1912.

Greenville
County; loca-
tion and boun-
daries.

Civ. '02, §
549.

Sec. 600. GREENVILLE COUNTY is bounded as follows: On the north by the North Carolina line; on the east and southeast by Spartanburg and Laurens Counties, from which it is divided as follows: from Spartanburg County, by a line commencing on the North Carolina line, at a stone marked "S. C.," on the east side of Blackstock road, near the Tryon Mountain, and running (south 2° east) twenty-two miles and sixty-four chains, or until it intersects the Enoree River at Abner's Mill; thence down the Enoree River to a point about one mile and three-quarters below Anderson's Bridge (the corner of Greenville and Laurens Counties); from Laurens County, by a line commencing at said point (opposite Zadock's Ford), and running (south 17° west) eleven miles and sixty chains, to a point; thence (south 4° east) three miles and forty-five chains, to a water oak, marked "L. G.," on Reedy River; thence running to the mouth of Line Creek, where it enters the Saluda River; on the west by Anderson and Pickens Counties from which it is separated by the Saluda River.

Greenwood
County.

Civ. '02, §
550.

Sec. 601. GREENWOOD COUNTY is bounded as follows: That is to say, beginning at the middle line of Saluda River at the northeast corner of Saluda County, thence along the line of Saluda County to its northwest corner on Mountain Creek, thence a straight line to the middle line of Shinburg Bridge on Cuffa Town Creek, thence down the middle line of Cuffa Town Creek to its junction with Hard Labor Creek, thence down the middle line of Stevens's Creek to the mouth of Rocky Creek, thence up the middle line of Rocky Creek to the Abbeville and Edgefield County line, thence north 33 degrees west to mile post on public road leading from Troy to McCormick near George Lebert's residence, thence north 13 degrees west to a corner post one hundred and fifty feet (150) south of Jordan's old mill on Long Cane Creek, thence northeast 50 degrees two miles and three-quarters, thence northeast 42 degrees two miles, thence northeast 27 degrees 50 minutes two miles, thence northeast 13 degrees 20 minutes two miles, thence northwest 1 degree two miles, thence northwest 15 degrees 10 minutes two miles, thence northwest 29 degrees 20 minutes two miles, thence northwest 43 degrees 35 minutes two miles, thence northwest 57 degrees 45 minutes, one and one-

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fifth miles, to post four hundred feet (400) north of Douglas's Mill Bridge on Long Cane Creek, thence north 7 degrees west to division line between Long Cane and Cokesbury Townships, thence up said division line to its crossing of Long Cane Creek, thence up the middle line of Long Cane Creek to its crossing of the division line between Donald's and Cokesbury Townships, thence along said Cokesbury and Donald's Township division line to the middle line of Saluda River, thence down the middle line of Saluda River to the northeast corner of Saluda County, the point of beginning.

Sec. 602. HAMPTON COUNTY is bounded as follows: On the northeast by Colleton County, from which it is separated by the Combahee and Salkehatchie Rivers; on the northwest by Barnwell County; and on the south by the centre line of the track of the Savannah and Charleston Railroad separating it from Beaufort County, of which it was once a part.

Hampton
County; loca-
tion and boun-
daries.

Civ. '02, §
551.

Sec. 603. Horry County is bounded as follows: On the southeast by the Atlantic Ocean, a line of thirty-one miles; on the northeast by the North Carolina line, beginning at a cedar stake (marked with nine notches) on the sea-shore of Goat Island, about one and a quarter miles east of the mouth of Little River, and running from thence until it intersects Lumber River (about five and a fourth miles to the east of Newsom's Ferry); on the west and southwest by Marion and Georgetown Counties, from which it is separated as follows: by Lumber River to Little Pee Dee River, thence by Little Pee Dee River to its junction with Great Pee Dee River, thence by Great Pee Dee River to its junction with Bull Creek, thence by said creek to the Waccamaw River, and down this river to a point about half a mile below Prince's Creek; and thence by a line running over to a cedar post on the sea-shore (north $86\frac{1}{2}^{\circ}$ east) five miles and sixty-seven chains.

Horry Coun-
ty; location
and bounda-
ries.

Civ. '02, §
532.

Sec. 604. KERSHAW COUNTY is bounded on the southeast by Lee and Sumter Counties, from which it is divided by a line beginning at Spivey's Ferry, on Lynch's River, and extending along the Lee County line to the point where the line between Lee County and Sumter County meets the line of Kershaw County, thence in a south-

Kershaw
County; loca-
tion and boun-
daries.

Civ. '02, §
553.

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west direction along the Sumter County line to the Wateree River; on the southwest by Richland County, from which it is divided by a line beginning at the Wateree River, opposite to the last mentioned point, and running (south 66° west), or by Raglin's Creek, to Speer's Creek; thence up Raglin's Creek to its head; thence by a straight line (north $40\frac{3}{4}^{\circ}$ west) ten miles seventeen chains; thence (north $56\frac{1}{2}^{\circ}$ west) one mile fourteen chains, to a point over Rice Creek, on Peay's plantation, nearly half a mile above the fork of Twenty-five Mile Creek; on the west by Fairfield County, from it is separated by a line drawn from the last mentioned point (north $18\frac{1}{4}^{\circ}$ east) twenty-three miles fourteen chains, or until it intersects the Wateree River, and up the said river half a mile above Peay's Ferry; on the northwest and north by Lancaster County, from which it is divided by the following lines: beginning at a point on Catawba River one-half mile above Peay's Ferry, thence north 54 E. 9 miles 62 chains to stone corner near Russell Place; thence N. 74 E. 1 mile 37 chains and 50 links to corner at Hammond's Springs 75 feet left; thence N. 48 E. 2 miles 63 chains to stone corner near Hanging Rock Bridge; thence south along the Salisbury Road 4 miles 16 chains to corner near Bethel Church; thence N. 66 E. 14 miles 76 chains 16 links to Lynch's River, separating Chesterfield from Kershaw and Lancaster Counties; on the northeast by Chesterfield and Darlington Counties, from which it is separated by Lynch's River down to the place of beginning.

Lancaster
County; loca-
tion and boun-
daries.

Civ. '02, §
554.

Sec. 605. LANCASTER COUNTY is bounded as follows: On the north by the North Carolina line; on the west by the Catawba River and Big Sugar Creek from the point where it enters said river to the intersection of the North Carolina line, which separates it from the Counties of York, Chester, and Fairfield; on the south by Kershaw County, from which it is divided by the line mentioned in the last preceding Section; and on the east by Chesterfield County, from which it is separated by Lynch's River.

Laurens
County; loca-
tion and boun-
daries.

Civ. '02, §
555.

Sec. 606. LAURENS COUNTY is bounded as follows: On the southwest by the Saluda River, by which it is separated from Abbeville and Greenwood Counties; on the northwest by Greenville County, from which it is divided by a line commencing at the mouth of Line Creek, where it enters

the Saluda River, and running five miles and forty-five chains to a water oak, marked "L. G.," on the Reedy River, thence (north 4° west) three miles and forty-five chains to a point, thence (north 17° east) eleven miles and sixty chains, to the ford on Enoree River, opposite Zadock's Ford; on the northeast by the Enoree River, which separates it from Spartanburg and Union Counties; on the southeast by Newberry County, from which it is divided by the old road leading from Odel's Ford, on the Enoree River, to Island Ford, on the Saluda River.

Sec. 607. LEE COUNTY is bounded as follows: Beginning at Field's Bridge on Lynches River, and running down said river a distance of 13 miles, leaving said river back of Irby Truluck's plantation and crossing Lynchburg and Lake City road between Bob Welch and Dr. Miller's places a course south 28° west $3\frac{1}{4}$ miles striking new road, thence south 80° west, $2\frac{3}{4}$ miles to the Pudding Swamp Road at T. L. Kirkpatrick's. Thence south 65° west, crossing Raccoon Road at Sam Wilson's $5\frac{3}{4}$ miles to Scottsville. Thence from Scottsville south $76\ 1-3^{\circ}$ west $\frac{3}{4}$ miles to Black River. Thence up Black River, in Sumter County, $3\frac{3}{4}$ miles to Witherspoon Crossing. Thence south 80° west to Scape o'er Swamp. Thence up said swamp $2\frac{5}{8}$ miles to the C., S. & N. R. R. crossing. Thence north 80° west 3 38-100 miles to Cow Pen Crossing. Thence north 62° west 11 81-100 miles to a point in Bradley's field near the Kershaw County line. Thence due north 1 87-100 miles to Kershaw County line. Thence down said line 2 62-100 of a mile to Reynold's Mill. Thence following the Three Notch Road in Kershaw County a distance of three miles to Antioch School House. Thence north 50° east $1\frac{1}{4}$ miles. Thence due north $1\frac{3}{4}$ miles to the Camden Road. Thence following said road a distance of $4\frac{3}{4}$ miles to Harrison Hall mill. Thence an eastern direction 1 87-100 miles to the old Georgetown Road. Thence up said road to near the head of Turkey Creek. Thence a north line to the Camden Road leading from Kelley's Bridge on Lynches River to Camden. Thence down said road to the Holland ditch. Thence up said ditch $\frac{3}{4}$ of a mile to a corner of plantation of Edmond Tiller. Thence north 63° east crossing the Mecklenburg Road near the house of Whitfield Gardner's to Lynch's River, south of

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Dr. Norwood place 3 37-100 of a mile. Thence down said river a distance of 3 miles near Kelley's Bridge $\frac{1}{4}$ of a mile south of said bridge. Thence north 42° east a distance of 8 miles to Ashland Methodist Church. Thence north 22° east crossing the Chesterfield Road between J. E. Woodham and J. W. Gardner 2 62-100 of a mile to Stuckey's gate on the Old Stage Road. Thence down said road $\frac{3}{4}$ of a mile. Thence due south 2 62-100 of a mile to Liberty Hill Church, at the head of Sparrow Swamp. Thence down Sparrow Swamp to a point in the Marco Mill Pond near B. A. Howls. Thence in Cypress Township south 28° east $1\frac{1}{2}$ miles to Long Branch. Thence up said branch $\frac{1}{4}$ of a mile; thence south 28° east $1\frac{1}{8}$ miles to Screeches Branch; thence due south 3 miles, to the Lamar Township line; thence following said line to the beginning corner.

Lexington
County; loca-
tion and boun-
daries.

Civ. '02, §
556.

Sec. 608. LEXINGTON COUNTY is bounded as follows: On the north and northeast by Fairfield and Richland Counties, from which it is separated by the Broad and Congaree Rivers; on the southeast by Orangeburg and Calhoun County line, from which it is divided by Beaver Creek; on the southwest by Aiken County, from which it is separated by the north fork of Edisto River, to the mouth of the south branch of Chinquepin Falls Creek, and then by said creek to a point where it intersects the line drawn from Silver Bluff, on the Savannah River, to the mouth of Rocky Creek, on Saluda River; on the northwest by Saluda and Newberry Counties, from which it is divided by a line drawn from Silver Bluff, on Savannah River, to the mouth of Rocky Creek, on Saluda River, and thence, on the same course, to a point where said line is intersected by the line of the corporate limits on the southeastern side of the town of Little Mountain, and running thence south 38° east thirty-one chains; thence north 52° east 160 chains; thence north 38° west 121 chains to the point of intersection of the original course of the straight line from Silver Bluff to the mouth of Rocky Creek with the incorporate limits of the town of Little Mountain on its northwestern side; and thence along the original course of the straight line from Silver Bluff through the mouth of Rocky Creek, on Saluda River, to Broad River.

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Sec. 609. MARION COUNTY is bounded as follows: On the north by Dillon County, on the west by the Great Pee Dee River, thence down the Great Pee Dee River, which divides it from Florence, Williamsburg and Georgetown Counties, to the mouth of the Little Pee Dee River, thence up the Little Pee Dee and Lumber Rivers, separating it on the east from Horry County, to the line of Dillon County on the Little Pee Dee River.

Marion County; location and boundaries.

Civ. '02, § 557.

Sec. 610. MARLBORO COUNTY is bounded as follows: On the west by the Great Pee Dee River, which separates it from the Counties of Chesterfield, Darlington and Florence; and on the southeast by Dillon County, from which it is divided by a line drawn from a dead pine on the North Carolina line (south $22\frac{1}{2}^{\circ}$ west) twenty-four and three-fourths miles until it intersects the Great Pee Dee River.

Marlboro County; location and boundaries.

Civ. '02, § 558.

Sec. 611. NEWBERRY COUNTY is bounded as follows: On the northwest by Laurens County, from which it is divided by a line beginning at the Island Ford, on Saluda River, and running thence along the old road to Odel's Ford, on Enoree River; and on the north by a line commencing at Odel's Ford, on Enoree River, and running thence down Enoree to Anderson's Ford; thence along the road to Hill's Ford, on Tyger River, thence down the same to the mouth, thence down Broad River to Hughey's Ferry, by which it is separated from Fairfield County; and on the southeast by Lexington County, from which it is separated by the line mentioned in Section 608, and on the southwest by the Saluda River, by which it is separated from Greenwood and Saluda Counties.

Newberry County; location and boundaries.

Civ. '02, § 559.

Sec. 612. OCONEE COUNTY is bounded as follows: On the north by the North Carolina line; on the east by Pickens County, from which it is divided by a line covering the Southern boundary of the State of North Carolina where the Toxaway River enters this State, and thence down the centre of said river, by whatever names known, to Ravenel's Bridge, on Seneca River, and thence along the centre of the road leading to Pendleton village, until it intersects the line of the County of Anderson; on the south by Anderson County, from which it is divided by a line commencing at the mouth of Cane Creek, on Tugaloo River,

Oconee County; location and boundaries.

Civ. '02, § 560.

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and running thence along the line which originally separated Anderson from Pickens District to its point of intersection with the public road leading from Ravenel's Bridge to Pendleton village; on the west and northwest by the State of Georgia, from which it is separated by the Tugaloo and Chatooga Rivers.

Orangeburg
County: loca-
tion and boun-
daries.

Civ. '02, §
561.

Sec. 613. ORANGEBURG COUNTY is bounded as follows: On the north and northeast by Calhoun and Clarendon Counties, from which it is separated by the Santee River and the line of Calhoun County; on the southwest by Berkeley and Colleton Counties, from which it is divided by a line drawn (south 52° west) from Nelson's Ferry, on the Santee River, to Matthew's Bluff, on the Savannah River; on the southwest by Barnwell and Bamberg Counties, from which it is separated by the South Edisto River; on the northwest by Aiken and Lexington Counties, from which it is divided by a direct line drawn from A. J. Weathersbee's old mill, on the line between Barnwell and Aiken Counties, to the point where the Cedar Pond Branch empties into the North Fork of the Edisto, and by another direct line, drawn from said point where the Cedar Pond Branch empties into the North Fork of the Edisto, to the head waters of the main branch of Beaver Creek, thence down said creek to the line of Calhoun County, thence along said line to the Santee River: *Provided*, That the County lines of Berkeley County and of Orangeburg County are hereby so altered as to cut off from said Berkeley County and to transfer and annex to and incorporate within said Orangeburg County all of that certain territory or portion of Berkeley County embraced within the following lines and boundaries, to wit: Beginning at a point located on Four Holes Swamp at the intersection of the boundary lines of Orangeburg, Dorchester and Berkeley Counties, and extending in a southeasterly direction, along Four Holes Swamp, the same being the boundary between Dorchester and Berkeley Counties, to a large cypress which stands at the confluence of Four Holes and Dean Swamps, at the upper part of Turkey Lake; thence up and along the run of Dean Swamp as it meanders to a point where Dean Swamp and Black Creek unite; thence up Black Creek to the point where Big Black Creek and Little Black Creek unite; thence

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p Little Black Creek to the point where the "new road" crosses said Little Black Creek; thence northerly up the "new road" to the Monck's Corner public road, near Mark Richardson's place; thence north ten chains to a pine; thence north 14 degrees east, thirty-eight chains to a stake; thence south 37 degrees 15 minutes east, forty-nine chains to stake; thence east 9.70 chains to a stake; thence north 39.50 chains to a stake; thence north 87 degrees east, thirty-four chains and ten links; thence north fifty-four and one-half ($54\frac{1}{2}$) chains to a stake; thence north 1 degree 30 minutes west, eighteen chains and sixty links to a stake; thence north 30 degrees west, thirty-one chains to a stake; thence north 8 degrees west, eleven chains to a cypress at the river road and Rock Creek Bridge; thence northeast along Rock Creek to where Rock Creek empties into the Santee River; thence up the Santee River to the mouth of Eutaw Creek, where the Orangeburg and Berkeley lines connect; thence southwest along the boundary line between Orangeburg and Berkeley Counties to the point of beginning.

Sec. 614. PICKENS COUNTY is bounded as follows: Pickens County; location and boundaries.
On the north by the North Carolina line; on the east by Greenville County, from which it is separated by the Saluda River; on the south by Anderson County, from which it is divided by a line beginning at the mouth of Cane Creek, on the Tugaloo River, and thence running to the point where Eighteen Mile Creek is crossed by the road leading from Pendleton to Hagood's Store, and thence to the mouth of George's Creek, on the Saluda River; on the west by Oconee County, from which it is divided by a line leaving the southern boundary of the State of North Carolina where the Toxaway enters this State, and thence down the centre of said river, by whatever names known, to Ravenel's Bridge, on Seneca River, and thence along the centre of the road leading to Pendleton village until it intersects the line of the County of Anderson. Civ. '02, § 562. 1875, XV. 1014.

Sec. 615. RICHLAND COUNTY is bounded as follows: Richland County; location and boundaries.
On the east by Sumter County, from which it is separated by the Wateree River; on the north by Kershaw and Fairfield Counties, from which it is divided by a line beginning at the mouth of Raglin's Creek, where it empties into the Wateree River, and thence up Raglin's Gut and Creek to Civ. '02, § 563.

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its source, thence by a straight line (north 50° west) twelve miles and sixteen chains, to a point designating the corner of Kershaw and Fairfield Counties, (which lines form the boundary of Kershaw County.) thence by a straight line drawn (north 88° west) seventeen miles and forty chains, to the intersection of Little River, about one mile above the mouth of Shaver's Creek, and down said river to its junction with Broad River (which separates it from Fairfield); on the west and south by the Counties of Lexington and Calhoun, from which it is separated by the Broad and Congaree Rivers.

Saluda County: location and boundaries.

Civ. '02, § 564.

Sec. 616. SALUDA COUNTY is bounded by a line beginning at the centre of Big Saluda River at a point opposite the corner of Edgefield and Lexington Counties, thence the old Edgefield and Lexington line to the corner of Lexington and Aiken Counties, thence the old Edgefield and Aiken line to a point three miles north of where the public road crosses said line near Lybrand's old mill, thence a straight line to ten-mile post on public highway leading from Edgefield to Columbia, near the residence of J. W. L. Bartley, thence a straight line to the junction of the public road leading from Pleasant Cross with the Long Cane Road near William Lott's, thence by the Long Cane Road to Matt Mathis's Cross Roads, thence a straight line to Owdom's Postoffice, thence a straight line to Little Red Hill School House near Dr. Landrum's old place, thence a straight line to a point on the northwestern line of Pine Grove Township, one mile north of Double Bridges, thence along the northwestern boundary of Pine Grove Township to the point on the old Charleston and Cambridge Road where it crosses Halfway Swamp Creek, thence down the middle of Halfway Swamp Creek to a point in the middle of Saluda River opposite the mouth of said creek, thence down the middle of Big Saluda River to the initial point.

Spartanburg County: location and boundaries.

Civ. '02, § 565.

Sec. 617. SPARTANBURG COUNTY is bounded as follows: On the north by the North Carolina line; on the west by Greenville County, from which it is divided by a line commencing on the North Carolina line at a stone marked "S. C.," on the east side of Blackstock's Road, near the Tryon Mountain, and running (south 2° east) twenty-two miles and sixty-four chains, or until it intersects the

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Enoree River at Abner's Mill on said river, thence down the Enoree River to a point about one mile and three-quarters below Anderson's Bridge (the corner of Greenville and Laurens Counties); on the southwest by the Enoree River, down to a dead Spanish oak below Head's Ford, and a little above the mouth of a small creek which divides from Laurens County; on the southeast by Union County, from which it is divided by the following lines: beginning at the dead Spanish oak on the north side of Enoree River, and running (north 12° east) three miles and twenty-six chains, thence (north 17° east) two miles and twenty-eight chains, thence (north $61\frac{1}{2}^{\circ}$ east) eleven miles and fifteen chains, crossing Tyger River, to Fair Forest Creek, thence (north $33^{\circ} 45'$ east) six miles and thirty-seven chains to Pacolet River, a little below Gist's Mill, thence along the western boundary of Cherokee County to the North Carolina State line.

Sec. 618. SUMTER COUNTY is bounded as follows: On the north by Kershaw, Lee and Florence Counties; on the west and southwest by Florence County; on the southeast by Florence County; on the south by Clarendon County, from which it is divided by the northwest line of Clarendon County, mentioned in Section 591; on the west by the Santee River, which separates it from Richland County; on the northwest by Kershaw County, from which it is divided by a line running up Raglin's Gut to Big Swift Creek.

Sumter County: location and boundaries.
Civ. '02, § 566.

Sec. 619. UNION COUNTY is bounded as follows: On the north by the Pacolet River, which separates it from Cherokee County; on the east by Broad River, which separates it from York, Chester and Fairfield Counties; on the northwest by Spartanburg County, from which it is divided by a line, beginning at the corner of Cherokee and Union Counties with Spartanburg County on the Pacolet River, and running thence (south $33\frac{3}{4}^{\circ}$ west) to the intersection of Fair Forest Creek; thence (south $61\frac{1}{2}^{\circ}$ west) across the Tyger River to Hackett's Creek; thence (south 17° west) two miles and twenty-eight chains, to the Cross Keys Road; thence (south 12° west) to a dead Spanish oak on the north bank of the Enoree River, a little above Musgrove's Ford, opposite Gordon's Mills; on the southwest by Laurens and Newberry

Union County: location and boundaries.
Civ. '02, § 567.

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Counties, from which it is divided by the Enoree River down to Avery's Ford; thence by the road to Crenshaw Ford, on the Tyger River; thence down said river to its junction with the Broad River, which forms its southeast boundary.

Williamsburg
County; loca-
tion and boun-
daries:

Civ. '02, §
588.

Sec. 620. WILLIAMSBURG COUNTY is bounded as follows: On the southwest by Berkeley County, from which it is separated by the Santee River; on the northwest by Clarendon and Florence Counties; and is divided from Clarendon County, and in part from Florence County, by a line commencing at a point on Santee River, extending across into Berkeley County (south $22\frac{1}{2}^{\circ}$ west) until it intersects the line dividing St. John's Berkeley and St. Stephen's Parishes at the Santee River; thence (north $22\frac{1}{2}^{\circ}$ east)—with very little variation at Black River—to where the line of Florence County, running westwardly from Lynch's River, intersects said line; thence easterly on Florence County to a point at and above Anderson's Bridge on said Lynch's River, so as to cut off twenty-eight square miles of the territory of Williamsburg County for Florence County; thence down said Lynch's River, which separates it on the north from Florence County, to its confluence with the Great Pee Dee River; thence down the Great Pee Dee River, which separates it from Marion County, to the road leading from Britton's and Bradley's Ferry, on said Great Pee Dee River, to Leneud's Ferry on the Santee River, the said road being the boundary line on the southeast, separating it from Georgetown County, except the following described section of Williamsburg County, cut off from Williamsburg County, and incorporated within the County of Florence, to wit: All that portion of Lee and Lake Townships, containing nine square miles, as appears from plat made by E. J. Smith, surveyor, dated the 28th of November, 1903, beginning at a point one mile south of Anderson's Bridge, on Lynch's River, and thence running in a westerly direction through portions of Lee and Lake Townships, in the said County of Williamsburg, to the line separating the County of Williamsburg from Mott's Township, in the County of Florence.

Sec. 621. YORK COUNTY is bounded as follows: On the north by the North Carolina line; on the west by the

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astern line of Cherokee County, mentioned in Section 588; on the south by Chester County, from which it is divided by a line beginning at a hickory tree, on the southwest side of the Catawba River, about ten chains above the mouth of Ferrill's Creek, and running (nearly south 88° west) by an old line called and known by the name of the Line of the New Acquisition, to an ash and black gum on the bank of Broad River, on Robert Elliott's land; on the east by the County of Lancaster and the North Carolina line.

York Coun-
ty: location
and bounda-
ries.

Civ. '02, §
569.

Sec. 622. Real and personal estate heretofore conveyed by any form of conveyance to the inhabitants of a County or District, to a Committee, or Commissioners, or other persons, or existing in a County or District for the use and benefit of a County or District, shall be deemed to be the property of such County; and such conveyance shall have the same force and effect as if made to such County by its corporate name.

Property of
County.

Civ. '02, §
570.

Sec. 623. The public officers having by law the care and custody of town, village, city, or County buildings, are authorized to insure the same at the expense and for the benefit of the town, village, city, or County owning the same.

Public off-
cers having
care of public
buildings may
insure the
same.

Civ. '02, §
571.

See Sections 123-131.—Insurance by Sinking Fund Commission.

Sec. 624. All County poor farms, poor houses, and hospitals, court houses, jails, and all other public property of every kind or description actually used as such, are forever exempt from attachment, levy, and sale, on account of any judgment, lien, or claim whatsoever against the County to which they or any of them belong.

County prop-
erty exempt
from levy and
sale.

Civ. '02, §
572.

Sec. 625. Whenever it is desired to incorporate a new County in this State, it shall be the duty of those petitioning for same to publish, in one or more newspapers in each County from which it is proposed to take any territory, for at least three months before the meeting of the Legislature when same is to be applied for, a statement of the proposed County line in said County, and shall also have made a survey of the territory proposed to be taken and file same in the office of the Secretary of State for at least thirty days before the meeting of the Legislature when the charter is to be applied for. No charter shall be granted or such new

Notice of in-
tention to
form new
Counties;
preliminary
publication.

Civ. '02, §
573.

Survey to be
made and
map filed.

No charter
to be granted
without.

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County formed unless the foregoing provisions have been complied with.

New Counties,
petition for.

Civ. '02, §
574.

Sec. 626. Whenever two or more sections of an old County or Counties desiring to be incorporated into a new County shall file with the Governor a petition signed by one-third of the qualified electors residing within the area of each section of an old County proposed to be cut off to form a new County, setting forth the boundaries of the proposed new County, the proposed name, the number of inhabitants, the area, the taxable property as shown by the last tax returns, and that the proposed lines for the new County do not run nearer than eight miles of any Court House building then established.

The provisions of Sections 626, 631, 632, 633, 634, being the Act of 1896, XXII, 64, considered and construed in *Segars v. Parrott*, 54 S. C., 1; 31 S. E., 677.

Governor's
duty when pe-
tition for new
County is
filed.

1905, XXIV,
915.

Sec. 627. Whenever a petition is presented to and filed with the Governor for the creation of any new County, he shall, before ordering any election thereon, refer the petition back to a Commission which he shall appoint, as provided in the next Section hereof, for investigation by the said Commission as to whether the requirements of the Constitution as to area, distance, wealth, population, etc., have been complied with.

This and the following three sections considered in *Lamar v. Croft*, 73 S. C., 407; 53 S. E., 540; *State ex rel. Reese v. Ansel*, Governor, 78 S. C., 331; 58 S. E., 993; *Brown v. Ansel*, Governor, 82 S. C., 141; 63 S. E., 449.

Commission.

Sec. 628. The said Commission shall consist of one person of discretion from each of the old Counties, who is opposed to the new County, if there be any opposition, and an equal number of citizens who favor the formation of the new County, to be taken from within the territory of the proposed new County. The representation of the proposed new County, and the old County or Counties from which the new County is proposed to be formed, must be equal in number on this Commission.

Duty of Com-
missioners.

Sec. 629. Upon receiving such petition and any annexed exhibits, the said Commission shall appoint and contract with two competent surveyors, who shall not be residents of any County to be cut by the line of the proposed new County, and these two surveyors shall name and call in a

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bird similarly qualified to settle any points of difference between them, that these shall ascertain and settle all necessary questions as to area, both of the proposed new County and of the old Counties, after being diminished by the new, and as to the distances of the lines of the proposed new County from any existing Court House; they shall also make survey of the proposed new lines and plainly mark the same, so as to clearly define the population and wealth taken and left, and so as to guide as to who can vote by reason of residence, if the election be finally ordered, and they shall make full return and report of their finding, with plots of their work, to the said Commission, who shall annex the same to the petition; these surveyors shall be paid by warrant of the said Commission on the Treasurer of each old County involved for the pro rata of the survey made within the territory of each, and to this end the surveyors shall render an itemized bill of their work for each County to be cut by the new lines.

Sec. 630. The said Commission, after the return by the surveyors has been filed with them, shall thoroughly investigate as to population and wealth proposed to be taken and left by the new County, and to that end shall have power to send for persons, papers and books giving statistics, and shall have the authority to administer oaths and take testimony, and to employ a stenographer, if deemed by them necessary; that they shall make full report to the Governor, by their finding as to the wealth and population embraced within the limits of the proposed new County, and as to the wealth and population to be left in each old County to be cut by the new, and shall annex their report with proper exhibits and with any evidence on which same is based to the petition, and forthwith upon the completion of their investigation and report, return the petition and such finding and showing as hereinbefore provided for, to the Governor for his information.

Sec. 631. Within twenty days after receipt of such petition the Governor shall order an election in the territory proposed to be cut off for the new County, to be held within sixty days from the date of the order. At such election the electors shall vote "yes" or "no" upon the question of creat-

Commission
to investigate
facts.

Election for :
how ordered.

Civ. '02, §
575.

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ing, and upon the name and County seat of such proposed new County.

Election; how
conducted.

Civ. '02, §
576.

Sec. 632. For the purposes of such election the Commissioners of Election for each old County proposed to be cut shall appoint three Managers for each voting place in the area of the old County proposed to be cut off, not more than two of whom shall be in favor of the proposed new County or against it, and shall deliver to them the books of registration for those voting places, which the registration officers shall turn over to the Commissioners on demand. Such election shall be conducted in the same manner as general elections in this State, and all persons entitled to vote under the Constitution and laws of this State at general elections shall be entitled to vote at such election.

As to polling precincts.—State ex rel. Parler v. Jennings et al., 79 S. C., 414; 60 S. E., 967.

Duties of
Commission-
ers of Elec-
tion to can-
vass the re-
turns, etc.

Civ. '02, §
577.

Sec. 633. The Commissioners of Election for each old County proposed to be cut shall canvass the returns of the managers of each precinct in their County at which such election has been held, as such returns in general elections in this State are canvassed, and shall certify the result thereof in tabulated statement of the vote at each precinct to the Secretary of State, who shall transmit a tabulated statement of the vote at each precinct of an old County proposed to be cut off to both branches of the General Assembly at its next session. The said Commissioners of Election, respectively, shall have the power, and it is hereby made their duty as judicial officers, to decide all cases under protest or contest that may arise, subject to appeal to the Board of State Canvassers. The decision of said Commissioners of Election shall be final and conclusive evidence of the result of the election, unless appealed from within five days, in which case a decision of the Board of State Canvassers shall be final and conclusive evidence of the result of the election on all questions of fact.

Under Sections 632 and 633 the result of the election must be determined by the same method as in general elections.—Segars v. Parrott, 54 S. C., 1; 31 S. E., 677.

Decision of State Board of Canvassers.—State ex rel. Parler v. Jennings et al., 79 S. C., 414; 60 S. E., 967.

Sec. 634. The General Assembly at its next session shall create such new County if two-thirds of the qualified elec-

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Duty of Gen-
eral Assem-
bly.Civ. '02, §
578.

tors voting at such election shall vote in favor of the establishment of such new County, and if all the Constitutional requirements for the formation of new Counties have been complied with, of all of which such General Assembly must judge.

See *Segars v. Parrott, supra*. Dispensary law in force in old County continues in force in territory taken into new County.— *Amaker v. Taylor*, 81 S. C., 163; 62 S. E., 7.

Election for
new counties;
time between
elections.1908, XXV,
1080.

Sec. 635. No election shall be ordered for the creation or establishment of any new County which shall embrace one-half or more of the area of any proposed new County in which an election for its creation was defeated within four years preceding the date of the filing of the petition for such new County.

How Court
House may
be moved.Civ. '02, §
579.

Sec. 636. Whenever the citizens of any County desire to move the Court House they shall file a petition to that effect stating the point to which the Court House is proposed to be removed, signed by one-third of the qualified electors of such County, with the Governor, who shall within twenty days after the filing order an election in said County to be held within sixty days, at which election the electors shall vote for or against removal. The Commissioners of Election for such County shall appoint Managers of each precinct in the County and furnish them with the necessary boxes and registration books, which the officers of registration are hereby authorized to furnish the Commissioners. Such election shall be conducted as general elections in this State, and all electors qualified to vote at general elections shall be entitled to vote thereat. The Commissioners of Election of such County shall receive the returns of the Managers and tabulate the vote and declare the result. If two-thirds of the qualified voters voting in such election vote in favor of such removal, the County Board of Commissioners shall take the necessary steps to remove the Court House and public records of such County to the place designated.

How County
lines may be
changed.Civ. '02, §
580.

Sec. 637. Whenever the citizens of any section of one County desire to be incorporated within the limits of an adjoining County, they shall file a petition with the Governor to that effect, stating the area proposed to be cut off, from what County, and to what County added, and the two

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Proviso as
to voting
place.

Counties as proposed to be changed would still meet all the Constitutional requirements, signed by one-third of the qualified electors residing in the area sought to be cut off. Upon the filing of said petition the same procedure shall be had as in the formation of new Counties as provided in Sections 626, 627, 628, 629, 630, 631, 632, 633 and 634: *Provided*, When there is no established polling place or voting places in the area proposed to be cut off, the petitioners may name a voting place or places in their petition, and in such case the Governor shall in his order of election designate the place or places named in the petition as the voting place or places and managers of election shall be appointed therefor, and all electors otherwise qualified shall be allowed to vote at such voting place named in said order as is most convenient as legally as if their registration certificates called for that place by name.

Mandamus to compel Governor to order an election refused.—*Brown v. Ansel, Governor*, 82 S. C., 141; 63 S. E., 449.

How two
counties may
consolidate.

Civ. '02, §
581.

Sec. 638. Whenever the citizens of two or more Counties desire to consolidate them into one they shall file a petition with the Governor to that effect, signed by one-third of the qualified electors residing in the Counties, and upon the filing of such petition the same proceedings shall be had as in the formation of new Counties provided for in Sections 626, 627, 628, 629, 630, 631, 632, 633 and 634. At the election ordered upon said petition the electors shall vote for or against consolidation, the name of the new County and the location of the County seat.

TITLE VI.
OF STATE AND COUNTY OFFICERS.

- CHAPTER XVIII.** *General Provisions Relating to Public Officers.*
CHAPTER XIX. *The Executive Department and Officers Connected Therewith.*
CHAPTER XX. *County Officers.*

CHAPTER XVIII.

General Provisions Relating to Public Officers.

- ARTICLE 1.** Official oaths and bonds.
ARTICLE 2. Sales of public offices.
ARTICLE 3. Miscellaneous provisions.

ARTICLE I.

OFFICIAL OATHS AND BONDS.

Sec.	Sec.
639. Oath of office; "public officer" defined.	646. Clerks to receive blanks and give to officers.
640. Additional oaths required of certain officers.	647. Sureties; number of; residence; contribution among; etc.
641. Additional oaths of County officers in respect to sharing profits.	648. By whom bonds must be examined and approved.
642. Form of bond to be given by all public officers.	649. Who to approve form and execution of; where deposited.
643. Special liability for attorney's fees on Dispenser's bonds.	650. Bonds of County officers to be recorded.
644. The Attorney-General may employ assistant counsel for the enforcement of such bonds.	651. Annual examination of; by whom; and proceedings taken.
645. Printed forms of bonds; who to procure and distribute.	652. County Commissioners to examine and report annually upon sufficiency of County officers' bonds.

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SEC.

653. Suit on bonds; certified copies in evidence.

654. Distribution of public moneys recovered on bond of officer, etc.

655. Sureties desiring relief; how to proceed.

656. Proceedings when new bond required and default under; vacancy declared.

SEC.

657. Bond of surety company authorized; payable to the State.

658. Foreign companies may write bonds on compliance with law and with consent of certain State officers.

659. Certain clerks to give bond.

Public officers defined; oath.

1910, XXIII, 754.

Section 639. It shall be unlawful for any person to assume the duties of any public office until he has taken the oath provided by the Constitution, and been regularly commissioned by the Governor. The term "public officers" shall be construed to mean all officers of the State that have heretofore been commissioned, and Trustees of the various colleges of the State, members of various State Boards, Dispensary Constables, and other persons whose duties are defined by law.

Construed to mean "other persons whose public duties are defined by law." *Sanders v. Belue*, 78 S. C., 175; 58 S. E., 762.

This Act was omitted from the Code of 1902.

Additional oaths for Sheriffs and others.

Civ. '02, § 582.

Oath.

Sec. 640. In addition to the oath of office now required by Article III, Section 26, of the Constitution, each Sheriff, Deputy Sheriff, Coroner, and their deputies, and every Magistrate and all Constables, shall, before they be qualified to act in their and each of their respective offices, in addition to their respective oaths of office, severally take also the following additional oath: "I, A. B., do solemnly swear (or affirm, as the case may be,) that in the execution of the office to which I have been elected (or appointed) I will, to the best of my ability, enforce the penalties prescribed by law against gaming and the keeping of gaming tables, and will not fail to bring to justice all violations of the same that may come within my view or knowledge. So help me God."

All officers charged with the preservation of the peace shall also take before entering upon the duties of their office, the following additional oath, to be administered in like manner as the said oath prescribed by Article III, Section 26 of the Constitution: "I will, to the extent of my ability, enforce the penalties prescribed by law against duelling, and will not fail to bring to justice all persons offending

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against the said law that may come within my view or knowledge."

Sec. 641. Each County officer elected or appointed, shall, before entering upon the duties of his office, in addition to the other oaths required by law, including the oath with regard to duelling, take the following oath: "I, A. B., swear (or affirm, as the case may be,) that I am under no promise, in honor or law, to share the profits of the office to which I have been elected, (or appointed, as the case may be,) and I will not, directly or indirectly, sell or dispose of said office or the profits thereof; but will resign, or continue to discharge the duties thereof during the period fixed by law, if I so long live. So help me God."

Additional
oath required
of County of-
ficers in re-
spect to shar-
ing profits.

Civ. '02, §
583.

Sec. 642. The bond given by any person elected or appointed to any office for which bond is required shall be of the form following:

"STATE OF SOUTH CAROLINA.

"Know all men by these presents, that we (here insert the names of the person and his sureties) are held and firmly bound unto the State of South Carolina, in the penal sum of (insert the amount required by law) dollars, to the payment of which, well and truly to be made, we bind ourselves, and each and every of us, our heirs, executors and administrators, firmly by these presents. Sealed with our seal, and dated this (insert the day) day of (insert the month) Anno Domini one thousand eight hundred and (insert the year) and in the (insert the year) year of the Independence of the United States of America.

Form of bond
to be given by
all public of-
ficers.

Civ. '02, §
584.

"Whereas, the above bound (insert the name of the person appointed or elected) hath been appointed (or elected, as the case may be,) to the office of (insert the office.)

"Now, the condition of the above obligation is such that if the above bound (insert the name of the person appointed or elected) shall well and truly perform the duties of said office, as now or hereafter required by law, during the whole period he may continue in said office, then the above obligation to be void and of none effect or else to remain in full force and virtue.

"Sealed and delivered in the presence of:

"_____, (L. S.)

"(Here place name of witness.)"

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Execution of.—Commissioners v. Yongue, 1 Brev., 22; Commissioners v. Muse, 3 Brev., 150; Comptroller v. Waring, 3 Dess., 57. Liability on, for failure of duty.—Commissioners v. Moore, 2 Brev., 51; Treasury v. Mayrant, 2 Brev., 228; Treasurers v. Moore, 1 N. & McC., 214; Treasurer v. Bates, 2 Ball., 363; Treasurer v. Burch, 2 Hill, 519; McCauley v. Heriot, Riley Eq., 10; Williamson v. King, McM. Eq., 41; Treasurers v. Oswald, 2 McM., 145; Treasurers v. Clowney, 2 McM., 510; Treasurer v. DeSamsure, 2 Speers, 180; Lowndes v. Pinckney, 1 Rich. Eq., 153; McKenna v. Secrest, 4 Strob. Eq., 160; Reynolds v. Timmons, 7 S. C., 486; Greenville County v. Runion, 9 S. C., 1; State v. Baldwin, 14 S. C., 135; Tinsley v. Kirby, 17 S. C., 8; State v. Moses, 18 S. C., 372; Ib., 20 S. C., 470; State v. Lake, 30 S. C., 43; 8 S. E., 322; Strain v. Rabb, 30 S. C., 342; 9 S. E., 271; State ex rel. Elliott v. Jeter, 59 S. C., 110; 38 S. E., 134. Period covered by.—Commissioners v. Greenwood, 1 DesS., 450; Commissioners v. Boquet, 1 DesS., 599; Treasury v. Mayrant, 2 Brev., 228; Carolina Society v. Johnson, 1 McC., 41; Treasurer v. Lang, 2 Ball., 430; Treasurer v. Harris, 1 Hill, 282; Vaughn v. Evans, 1 Hill Ch., 414; So. Ca. v. Smith, 2 Hill, 589; Posey v. Ramey, 4 Strob., 20; Street v. Laurens, 5 Rich. Eq., 227; State v. Moses, 20 S. C., 470. Action on.—Commissioners v. McKie, 1 N. & McC., 575; Commissioners v. Newby, 1 McC., 184; Treasurer v. Wiggins, 1 McC., 568; Treasurer v. Bates, 2 Ball., 362; Ib., 1 Hill, 409; Williams v. King, McM. Eq., 41; Treasurers v. Oswald, 2 McM., 145; Treasurers v. Rivers, 2 McM., 207; Treasurers v. Buckner, 2 McM., 323; Mitchell v. Laurens, 7 Rich., 109; State v. Toomer, 7 Rich., 216; Greenville County v. Runion, 9 S. C., 1; State v. Cason, 11 S. C., 392; Aiken County v. Murray, 35 S. C., 508; 14 S. E., 954. Stat. Limitations.—Williamson v. King, McM. Eq., 41; Treasurers v. McPherson, 2 McM., 69; Reynolds v. Timmons, 7 S. C., 486; State v. Lake, 30 S. C., 43; 8 S. E., 322; Strain v. Rabb, 30 S. C., 342; 9 S. E., 271. Judgment on.—Treasurer v. Moore, 1 N. & McC., 214; Treasurer v. Ross, 4 McC., 273; Treasurer v. Burch, 2 Hill, 519; Treasurer v. Munday, 3 Hill, 167; Treasurer v. Buckner, 2 McM., 323; Norton v. Mulligan, 4 Strob., 355; Mitchell v. Laurens, 7 Rich., 109; State v. Moses, 18 S. C., 373. Costs.—Leslie v. Taggart, 2 McM., 71; State v. Wiley, 2 Strob., 113; Rowell v. Mulligan, 2 Strob., 379; Ib., 4 Strob., 349; Strain v. Rabb, 30 S. C., 342; 9 S. E., 271. Generally.—Dunlap v. Bynum, 4 Dess., 646; Treasurers v. Stevens, 2 McC., 107; Treasurers v. Ross, 4 McC., 273; Treasurers v. Burch, 2 Hill, 519; McBee v. Hoke, 2 Speers, 138; State v. Warner, 7 Rich., 225.

Bonds of
County Dis-
pensers.

Civ. '02, §
585.

Sec. 643. County Dispensers shall give bond in the form prescribed by the preceding Section; and the obligors on the bonds of County Dispensers shall be liable for all attorney's fees incurred in the collection of any shortage covered by said bonds.

Attorney-
General may
employ assist-
ant counsel to
enforce bonds.

Civ. '02, §
586.

Sec. 644. The Attorney General is hereby authorized, in case he deems it necessary, to employ assistant counsel in all cases for the enforcement of said County Dispensers bonds and the collection of the penalties thereunder; the compensation of said assistant counsel shall be paid out of the sums recovered in such actions on such bonds.

Comptroller-
General to
have blank
forms of
bonds printed
and distribut-
ed to Coun-
ties.

Civ. '02, §
587.

Sec. 645. It shall be the duty of the Comptroller General to ascertain the number of officers in this State from whom bonds are required, and to cause an equal number of said bonds to be printed annually, at the expense of the State.

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having thereon the blank forms for the proper officers to approve securities, and for probate; and to distribute to each County, annually, a number of said bonds equal to the number of officers from whom bonds are required in said County respectively.

Sec. 646. It shall be the duty of each Clerk to receive the bonds for his County, and to deliver one to each person elected or appointed to any such office, whenever called for.

Clerks to receive blanks and give to officers.

Civ. '02, § 588.

Sec. 647. The limit to the number of sureties allowed upon an official bond shall in no case be more than twenty. Each surety may state in writing the amount of the liability assumed by him, beyond which amount he shall not be held.

Number of sureties.

Civ. '02, § 589.

The aggregate of the amounts assumed by all the sureties shall not be less than the penalty of the bond. In case of loss or default, the sureties will be entitled, as between each other, to contribution in the proportion of their liability. The sureties on bonds of all County officers must be citizens of the County in which their principal resides; and in the case of the Sheriff, Coroner, Clerk of the Circuit Court, Judge of Probate, and County Treasurer, their number shall not exceed twelve or be less than two.

Sec. 648. The official bond of each officer of the Executive Department must be submitted to the Governor for his approval. The official bonds of all County officers must be examined and approved or disapproved by the County Board of Commissioners, except their own bonds, which must be examined and approved or disapproved by the Clerk of the Court or the Attorney-General. In all cases in which the County Board of Commissioners refuse to approve the bond of any County officer, such officers may refer the same to the Attorney-General, and if approved by him, after hearing evidence, they shall be accepted by the County Board of Commissioners.

By whom bonds must be examined and approved.

Civ. '02, § 590.

State v. Yates, 3 Hill, 280.

Sec. 649. The bonds of all public officers of the State shall, before they are accepted or recorded, be examined by the Attorney-General or by one of the Solicitors, who must certify in writing upon the bond that he approves the form and execution thereof; when so examined, approved and certified, the bonds of State, District or Circuit officers shall

Who to approve form and execution of: where deposited.

Civ. '02, § 591.

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be filed with the Secretary of State, and shall be recorded by him, without charge in suitable books kept by him for the purpose; and when so recorded shall be filed as aforesaid with the State Treasurer: *Provided*, That the bond of the State Treasurer shall be filed with the Governor.

Bonds of
County off-
cers to be re-
corded.

Sec. 650. Every County officer elected or appointed, who is required to give bonds for the faithful performance of the duties of his office, shall, within thirty days after notification of his election or appointment, have his said bond recorded in the office of the Register of Mesne Conveyance for the County in which such officer resides, and the Register shall keep a separate book, properly indexed, for the purpose of recording such bonds, which book shall be provided by the County Commissioners; and he shall be entitled to exact a fee from the public officer of one dollar for recording his bond.

Such bonds when recorded shall be immediately transmitted to the Secretary of State, who shall file the bonds with the State Treasurer.

Annual ex-
amination of:
by whom;
and proceed-
ings taken.

Civ. '02, §
593.

Sec. 651. All such official bonds shall be annually examined by a board to consist of the Secretary of State, Comptroller-General and Treasurer of the State, except their own bonds, which shall be annually examined by the Governor. If any surety on any such official bond should die, or depart permanently from the State, or if the said Board, or the Governor, respectively, should, at the time of the examination, or at any other time, be of opinion that either of the said sureties is not worth as much clear of debt as his proportion of the obligation to which his name is affixed, the said Board or the Governor, as the case may be, shall cause the said public officer whose surety has departed this life or removed from the State, or is objected to for insufficiency of estate, to be notified of such exception; and the said officer shall, within thirty days after the service of such notification, procure other surety satisfactory to the said Board or the Governor, as the case may be, for such as have departed the State or died, but so as not to cancel or at all impair the original bond, or produce satisfactory evidence to the said Board or the Governor, as the case may be, that the surety objected to as owning insufficient property, as aforesaid, is worth as much as his proportion of the said obligation, clear

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of debt; or else the said officer shall procure such additional and sufficient surety or sureties as the said Board or the Governor, respectively, shall approve of; and in default of compliance with either of the said requisitions within the said thirty days, the office of the said defaulting officer shall be regarded as vacant.

Sec. 652. It shall be the duty of the County Commissioners in each and every County in the State to make an annual examination into the sufficiency of all the County officers' bonds within their respective Counties, and within ten days thereafter report to the Comptroller-General, to be laid before the State Board for its action according to law, any that may, in their judgment, be insufficient.

County Commissioners to examine and report annually upon sufficiency of County officers' bonds.

Civ. '02, § 594.

Sec. 653. The bond of any public officer in this State may at all times be sued on by the public, any corporation, or private person, aggrieved by any misconduct of any such public officer; for which purpose the officer or officers, for the time being, with whom such bond may be filed, or recorded upon application at his or their office, shall deliver to any person applying therefor and paying the fees for doing the same an exact and certified copy of the bond of such public officer there deposited, or recorded; which copy so certified shall be good and sufficient evidence in all suits to be instituted in any Court of this State.

Bonds of public officers may be sued on, and certified copy used in evidence.

Civ. '02, § 595.

Treasurer v. Witsell, 1 Speer, 220; *Wleters v. May*, 71 S. C., 13; 50 S. E. 547.

Sec. 654. Whenever any officer of this State, charged with the care, collection, or disbursement of public funds, is required to give bond to the State, and a recovery is had upon said bond, or any moneys are seized, levied upon, or attached in his hands, or turned over or surrendered by such officer to the State Treasurer, upon his commitment to jail, under warrant from the State Treasurer, the moneys so recovered, seized, levied upon, attached, or surrendered, or turned over, shall be distributed between the State, County, school, or other specific funds, in proportion to the several amounts due by the said officer to the State, County, school, or other specific funds, at the time of such recovery, seizure, attachment, levy, or surrender. The provisions of this Section shall only apply to suits, seizures, attachments, or levies

Distribution of moneys derived from sales, etc.

Civ. '02, § 596.

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Surety, may
demand relief.Civ. '02, §
597.

New bond.

Release of
prior sureties.Duty of of-
ficer as to his
new bond.Civ. '02, §
598.Proceedings
on his failure.Governor to
declare office
vacant.Vacancy to
be filled.Bond of
surety com-
pany author-
ized.Civ. '02, §
599.

by or surrenders to public officers, and not to suits upon the bonds of such officers brought by private individuals.

Sec. 655. When any of the sureties of any officer elected or appointed to any office shall, in writing, notify the proper officer, whose duty it is to approve the bond of such officer, that they desire to be relieved from their suretyship, it shall be the duty of the officer authorized by law to approve the same to require said officer to execute a new bond with security, which, when approved, shall be as valid as the bond given on the original election or appointment of such officer; and the sureties upon the prior bond shall be released from responsibility for all acts or defaults of such officer which may be done or committed subsequent to the approval of such new bond.

Sec. 656. When any officer shall be required to execute a new bond, with security, as provided for in Section 655, he shall proceed forthwith to execute such new bond, and submit the same for approval to the officer authorized by law to approve the same, and if he shall fail or neglect to so execute and submit such new bond, or fail or neglect to execute and submit a bond satisfactory to the officer authorized to approve the same within thirty days after having been required so to do, the said officer, as the case may be, shall forthwith report to the Governor of the State that such officer has been duly required, under the provisions of Section 655, to furnish a new bond, and that such officer has failed so to do, and, upon being so informed, and upon receiving a certified copy of all the papers relative to the case, it shall be the duty of the Governor, by public proclamation, forthwith to declare the office held by such defaulting officer vacant, and such office so made vacant shall be filled in the manner now provided by law.

This remedy exclusive.—Ex parte Charles, 48 S. C., 279 : 26 S. E., 605.

Sec. 657. Any County or State officer, Trustee, Executor, Administrator, Guardian or other person or persons, who is now or may hereafter be required to give bond conditioned for the faithful performance of his legal duties, with sureties, may, in lieu thereof, secure and furnish a bond of indemnity, or policy of assurance or insurance, for the amount now or hereafter required by law for such officer

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person, written by a company duly incorporated and empowered by law to execute bonds or policies of suretyship and of guarantee against loss by reason of defalcation, fidelity, misfeasance or malfeasance on the part of the insured: *Provided*, That such bond or undertaking be approved by the head of department, officer, Board or body, executive, legislative or judicial, required to approve or accept the same. But no officer or person having the approval of any bond shall exact that it shall be furnished by a Guarantee Company or by any particular Guarantee Company: *Provided, further*, That said Company, unless it be incorporated under the laws of this State, comply with the law regulating Foreign Insurance Companies. The said bond or policy shall be made payable, in case of loss, to the State.

To be payable to State.
Civ. '02, § 600.

See article on Administration of Intestate's estates for provision as to bonds in surety companies.

Sec. 658. Any foreign company empowered by its home charter to issue bonds or policies or suretyship may, by the consent and approval of the Governor, Comptroller-General and Secretary of State, issue said bonds in this State: *Provided*, That they comply with the law now of force in this State regulating foreign insurance companies, all of which law which is now of force is hereby made applicable to companies issuing bonds or policies of suretyship.

Sec. 659. All persons who now hold, or who shall hereafter be appointed to, any of the following positions in the Departments of the State Government, or who shall be appointed by any of said Departments as Accountants to investigate and report the condition of any State or County office, shall take oath of office in the usual form and the Constitutional oath, and give good and sufficient bond in the usual form of official bonds as prescribed by Statute; such bonds to be approved and filed as the bonds of other State officers, the bonds to be in and for the penal sums below stated: Each Clerk in office of Secretary of State, four thousand dollars; each Clerk in the office of Comptroller-General, five thousand dollars; each Clerk in the State Treasurer's office, ten thousand dollars; Clerk of the State Superintendent of Education, twenty-five hundred dollars; Assistant Attorney-General, twenty-five hundred dollars; each Clerk and

Certain Clerks to give bond.
1906, XXV, 25.

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Agent of Sinking Fund Commission, three thousand dollars: *Provided*, No bond shall be required of any Stenographer or Typewriter in any of said Departments, except in the office of State Treasurer, in which case a bond of twenty-five hundred dollars shall be given; Accountant, five thousand dollars. Each of the persons required by this Section to give bond may procure a bond from a Surety Company, and in such case the premium or annual payment therefor shall be paid by the State Treasurer, on the warrant of the Comptroller-General.

ARTICLE II.

SALE OF PUBLIC OFFICES.

SEC.

660. The buying and selling of offices forbidden: penalty.

661. Bargains for sale, and sale of, void.

SEC.

662. Acts done by delinquent officers before removal valid.

663. Nepotism prohibited.

The buying and selling of offices forbidden; penalty.

Civ. '02, § 601.

Section 660. If any person or persons bargain for the purchase or sale of, or sell, any office, or deputation thereof, or any part of the same, or receive any money, fee, reward or any other profit, directly or indirectly, or take any promise, agreement, covenant, bond, or any assurance for the payment of any money, fee, reward or other profit, directly or indirectly, for any office or the deputation thereof, or any part of the same, or to the intent that any person should have, exercise or enjoy any office or the deputation thereof, or any part of the same, which office, or any part thereof, shall in any wise touch or concern the administration or execution of justice, or the receipt, control of payment of any public treasure, money, rent, revenue, account, auditorship, or surveying of any public lands, or which shall touch or concern any clerkship to be occupied in any Court of record wherein justice is ministered; every such person or persons shall not only lose and forfeit all right and interest in or to the said office or deputation thereof, or any part of the same, but shall immediately, upon the payment of said fee, money, or reward, or upon any such promise, covenant,

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and or agreement, had or made for the payment of such sum of money or reward; be adjudged a disabled person in the law, to all intents and purposes, to have, occupy or enjoy the said office or deputation, or any part thereof, for which any such person or persons shall so give or pay, or make any promise, covenant, bond or other assurance to give or pay, any sum of money, fee, or reward.

Sec. 661. Every bargain, sale, promise, bond, agreement, covenant, and assurance, as before specified, shall be void to and against him and them by whom any such bargain, sale, bond, promise, covenant, or assurance, shall be had or made. Sales, etc., of offices void. Civ. '02, § 602.

Sec. 662. If any person or persons shall offend in anything contrary to the tenor and effect of the two preceding Sections of this Chapter, yet, notwithstanding, all judgments given, and all other act and acts executed or done by any such person or persons so offending, by authority or color of the office or deputation which ought to be forfeited, or not occupied, or not enjoyed by the person so offending, after the said offence so by such person committed or done, and before such person so offending for the same offence be removed from the exercise, administration, and occupation of the said office or deputation, shall be and remain good and sufficient in law, to all intents, constructions, and purposes. Official acts performed after offense but before removal, valid. Civ. '02, § 603.

Sec. 663. It shall be unlawful for any person at the head of any department of this government to appoint to any office or position of trust or emolument under his control or management any person related or connected with him by consanguinity or affinity within the sixth degree. Civ. '02, § 604.

ARTICLE III.

MISCELLANEOUS PROVISIONS.

Sec. 664. Officers or their representatives must turn over moneys to successors; within what time; penalty.

665. Time of commencement of term of County officers.

Sec. 666. Contracts must not exceed tax levied or appropriation made.

667. Public funds not to be diverted.

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Sec.

668. Officer not to absent himself from State without leave; exceptions; forfeitures.

669. No officer to issue certificate of indebtedness; no State officer to draw checks, except against fund to his credit.

Sec.

670. Officer not entitled to pay until commissioned, etc.

671. County officers required to keep itemized account of cost and fees; Supervisors to keep record of.

Officers or their representatives must turn over moneys to successors; within what time; penalty.

Civ. '02, § 606.

Section 664. It shall be the duty of every Sheriff, Judge of Probate, Clerk of the Court of Common Pleas, County Treasurer and any other State or County officer entrusted with funds by virtue of his office, upon his retiring from office to turn over to his successor all moneys received by him as such officer, and remaining in his hands as such officer, within thirty days from the time when his successor shall have entered upon the duties of his office, in the same manner as he is required by law to turn over the furniture, books and papers; and the successor shall receive and be responsible for the moneys so turned over to him, in the same manner as he is liable for other moneys received by him officially. Upon the death of any such officer, his personal representative or representatives shall pay over to the successor of such deceased officer all moneys which such deceased officer had in his hands officially at the time of his death within two months after he, she or they have assumed the administration of such estate; and upon his or their neglect or failure to do so, without good cause, the estate of such deceased officer and the sureties on his official bond shall be liable to pay to such successor the amount due, with interest at the rate of five per cent. per month thereon, after the expiration of such term of two months, to be recovered by action brought by such successor for the benefit of the parties entitled to receive such money.

Master included in this section.—Peake v. Young, 40 S. C., 41; 18 S. E. 237.

Time of commencement of term of County officers.

1907, XXV, 541.

Sec. 665. The time for the commencing of the terms of office of the various County officers shall be the first Tuesday in January next after their election: *Provided*, Nothing herein contained shall apply to those officers who are appointed by the Governor: *Provided*, That this Section shall not apply to elections held for an unexpired term of office.

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Master included in provisions of this section.—*Peake v. Young*, 40 S. C., 41 ; S. E., 237.

Sec. 666. It shall be unlawful for any public officer, State or County, authorized by law to so contract, to enter into or contract, for any purpose whatsoever, in a sum in excess of the tax levied, or the amount appropriated for the accomplishment of such purpose.

Must enter into no contract in excess of sum limited.

Civ. '02, § 606.

Sec. 667. It shall be unlawful for any public officer, State or County, to divert or appropriate the funds arising from any tax levied and collected for any one fiscal year to the payment of any indebtedness contracted or incurred for any previous fiscal year.

Public funds not to be diverted.

Civ. '02, § 607.

Sec. 668. No State or County officer, except members of the General Assembly and the Governor, shall be absent from the State during his term of office for more than thirty days in any one year without special permission, to be granted by the Governor of the State.

Public officers not to absent themselves from the State without leave of the Governor.

Civ. '02, § 608.

Any such officer violating the provisions hereof shall forfeit to the State, upon conviction, the amount of the salaries and perquisites of his office for the year in which said absence occurs.

Sec. 669. It shall be unlawful for any State or County officer to issue any certificate of indebtedness. This provision shall not apply to the issuing of tickets to jurors or witnesses for attendance on the Circuit Courts.

Shall not issue any certificate of indebtedness or draw a check, except against funds.

Civ. '02, § 609.

Nor shall it be lawful for any State officer to draw a warrant or check for any public debt except upon money then actually to his credit on that account in the hands of some bank or public officer.

A school certificate drawn in one fiscal year on funds of an ensuing year is void as a certificate of indebtedness.—*Bank v. Shealey*, 62 S. C., 337 ; 40 S. E., 674 ; *State ex rel. People's Bank of Greenville v. Goodwyn*, 81 S. C., 421 ; 62 S. E., 1100.

Sec. 670. No executive, judicial, or other officer, elected or appointed to any office in the State, shall be entitled to receive any pay or emoluments of office until he shall have been duly commissioned and qualified, and shall have given bond when so required to do by law.

When public officer entitled to draw his salary.

Civ. '02, § 610.

McCoy v. Curtis, 14 S. C., 367.

Sec. 671. Each County officer shall be required to purchase and keep in his office, open to public inspection during

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County officers to keep itemized statements of costs and fees received.

Civ. '02, § 611, 612: 1902, XXIII, 1162: 1909, XXVI, 32.

Copy to be filed with County Supervisor.

Supervisor to enter on a book total receipts.

office hours, a book in which shall be kept an itemized account of all moneys received by or due to him, whether received by him or due to him as salary, fees or costs, or in any other manner, as pay to him for his services by virtue to his office: *Provided*, That nothing herein contained shall be construed to require any officer to demand the payment of his fees and costs in advance. At the close of each fiscal year each County officer shall transmit an itemized copy of said account, under oath, to the office of County Supervisor. The County Supervisor, in addition to other books kept in his office, shall keep a separate book in which he shall enter upon his books the total amount of each account so furnished, opposite the name of the officer furnishing the said account, and file the account in his office as other County records are kept: *Provided*, That the provisions of this Section shall not apply to the Counties of Sumter, Lexington and Newberry, Kershaw, Lancaster, Abbeville and Marlboro.

CHAPTER XIX.

The Executive Department and Officers Connected Therewith.

- ARTICLE 1. General Provisions.
- ARTICLE 2. The Governor and Lieutenant-Governor.
- ARTICLE 3. The Secretary of State.
- ARTICLE 4. The Attorney-General and Solicitors.
- ARTICLE 5. State Constables.
- ARTICLE 6. Notaries Public.
- ARTICLE 7. Commissioners of Deeds.
- ARTICLE 8. The Comptroller-General.
- ARTICLE 9. The State Treasurer.
- ARTICLE 10. The State Librarian and Trustees of State Library.
- ARTICLE 11. The State Geologist.
- ARTICLE 12. Department of Agriculture, Commerce and Industries.
- ARTICLE 13. State Board of Entomology.
- ARTICLE 14. Board of Pensions.
- ARTICLE 15. Board of Fisheries.
- ARTICLE 16. Public Service Commission.
- ARTICLE 17. Board for Uniformity of Legislation.
- ARTICLE 18. Board for Distribution of Dead Bodies for Scientific Purposes.

ARTICLE I.

GENERAL PROVISIONS.

<p>SEC. 672. What officers constitute the Executive Department. 673. Vacancies in: how filled. 674. Books and stationery for.</p>	<p>SEC. 675. State moneys to be paid by State officers into State Treasury quarterly.</p>
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Section 672. The Executive Department of this State is hereby declared to consist of the following officers, that is to say: The Governor and Lieutenant-Governor, the Sec-

What officers constitute the Executive Department.

Civ. '02, § 618.

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retary of State, the Treasurer of the State of South Carolina, the Attorney-General and Solicitors, Adjutant and Inspector-General, Comptroller-General, State Superintendent of Education, Commissioner of Agriculture, Commerce and Industries and the Insurance Commissioner.

Title to Governor's office.—Ex parte Norris, 8 S. C., 495.

Vacancies
in; how filled.

Civ. '02, §
614.

Sec. 673. In case any vacancy shall occur in the office of Secretary of State, Treasurer, Comptroller-General, Attorney-General, Adjutant and Inspector-General, or State Superintendent of Education, by death, resignation, or otherwise, such vacancy shall be filled by election by the General Assembly, a majority of the votes cast being necessary to a choice. If such vacancy occur during the recess of the General Assembly, the Governor shall fill the vacancy by appointment, until an election by the General Assembly at the session next ensuing such vacancy.

Books and
stationery
for.

Civ. '02, §
615.

Sec. 674. Each officer of the Executive Department shall, annually, on or before the first day of October, furnish to the Comptroller-General a list and description of such books and stationery, and the amount of postage stamps necessary for the use of his office during the current fiscal year.

State moneys
to be paid
into treasury
quarterly.

Civ. '02, §
616.

Sec. 675. All moneys collected from any source by the Comptroller-General, Secretary of State, the Sinking Fund Commission or other State officer, as now or hereafter required by law, shall be paid into the State Treasury at least once in every quarter.

ARTICLE II.

THE GOVERNOR AND LIEUTENANT-GOVERNOR.

SEC.

676. Vacancy in office of; when President of Senate to act as.

677. When Speaker of the House to act as.

678. When General Assembly elects to fill.

679. Term of person so elected.

680. Executive Chamber, records, etc.; salary.

681. Governor's Private Secretary; duties of.

682. Of what Boards the Governor is *ex-officio* a member.

SEC.

683. Offices filled by appointment of; by and with advice and consent of Senate.

684. Vacancies, power to fill: what offices. Commissioners, etc., for various institutions and boards.

685. His authority in respect to Asiatic cholera.

686. Governor may suspend sentence or parole prisoner.

687. Lieutenant-Governor; compensation of.

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Section 676. In case of the removal, death, resignation or inability of both the Governor and Lieutenant-Governor, the President of the Senate *pro tempore* shall perform the duties and exercise the powers of Governor until such disability shall have been removed, or until the next general election, when a Governor shall be elected by the electors duly qualified, as is prescribed by Section 2 of Article IV of the Constitution.

Vacancy in
office of : when
President of
Senate to act
as.

Civ. '02, §
617.

Sec. 677. In case of the disability, from whatever cause, of the Governor, Lieutenant-Governor, and the President of the Senate *pro tempore*, the Speaker of the House of Representatives shall perform the duties and exercise the powers of Governor, in like manner and upon like conditions as are prescribed by the preceding Section.

When Speak-
er of the
House to act
as.

Civ. '02, §
618.

Sec. 678. In case of the disability, from whatever cause, of all the officers enumerated in the two preceding Sections, the General Assembly, if the same shall be in session, by a joint vote, shall elect a person, duly qualified, to fill the office of Governor, in like manner, and upon the like conditions, as are prescribed by Section 676.

When Gen-
eral Assembly
elects to fill.

Civ. '02, §
619.

Sec. 679. Whenever a Governor shall be elected, as provided in the last Section, he shall immediately enter upon the discharge of the duties of his office, and shall continue to discharge the same during the residue of the term.

Term of per-
son so elect-
ed.

Civ. '02, §
620.

Sec. 680. The Governor shall be furnished with a suitable office, to be called the Executive Chamber, in which all petitions, memorials, letters, and all other official papers and documents addressed to or received by him shall be methodically arranged and kept, with proper indexes therefor. He shall keep a record in proper books of all his messages to the General Assembly, of all applications for pardon made to him, of all such pardons as may have been granted by him, and of all communications to the General Assembly relating thereto; of all bills presented to him in obedience to the provisions of the Constitution, and of all objections he may make to any of them; of all official communications, proclamations and orders issuing from his office; and of all other matters which he may think it important to preserve. He shall receive an annual salary of three thousand dollars.

Executive
Chamber, rec-
ords, etc.;
salary.

Civ. '02, §
621.

Pardoning power.—State v. Fuller, 1 McC., 178; State v. Addington, 2 Ball., 516; State v. Barns, 32 S. C., 14; 10 S. E., 611.

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Governor's
Private Sec-
retary; duties
of.

Civ. '02, §
622.

Sec. 681. The Governor shall be allowed a Private Secretary, to be appointed by him, who shall receive an annual salary of thirteen hundred and fifty dollars, and whose duty it shall be, under the direction of the Governor, to keep an accurate record, under proper dates, of all transactions, opinions and other official matters and acts occurring during his period of office, which said record shall, under certain restrictions, be open to the inspection of the members of the General Assembly. He shall also perform such clerical and other duties as may be required of him by the Governor, in connection with the duties of the office of Governor.

Of what
Boards the
Governor is
ex-officio a
member.

Civ. '02, §
623.

Sec. 682. The Governor *ex officio*, is a member of:
The Sinking Fund Commission.
The Board of Directors of the State Penitentiary.
The Board of Trustees of the South Carolina College.
The Board of Visitors of the State Military Academy.
The Board of Trustees of the South Carolina Industrial and Winthrop Normal College.
The Board of Trustees of the Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina.
The State Board of Education, of which he is also chairman.
The Board of Phosphate Commissioners, of which he is also Chairman.

State ex rel. Rawlinson v. Ansel, 76 S. C., 406; 57 S. E., 185.

Offices filled
by appoint-
ment of; by
and with ad-
vice and con-
sent of Sen-
ate.

Civ. '02, §
624.

Sec. 683. The Governor, by and with the advice and consent of the Senate, shall appoint the following officers:
County Auditors.
County Treasurers.
Magistrates.
Masters.
Seven members of the State Board of Education.
Supervisors of Registration.
Circuit Solicitors; when there is a vacancy in such office by reason of death, resignation, ceasing to reside in the Circuit, or otherwise.
A State Geologist.
Any vacancies which may happen in any of the said offices during the recess of the Senate may be filled by the Governor, who shall report the appointment to the Senate at its

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next session, and if the Senate do not advise and consent hereto at such session, the office shall be vacant.

A Commissioner of Agriculture, Commerce and Industries.

Commission on State House and Grounds.

Chief Game Warden, on the recommendation of the Audubon Society of South Carolina.

Public Service Commission.

Sec. 684. The following officers shall be appointed by the Governor:

Officers appointed by.
Civ. '02, § 625.

1. Any vacancy in an office of the Executive Department, occurring during a recess of the General Assembly. The term of such appointment to be until the vacancy be filled by a general election, or by the General Assembly, in the mode provided by law.

As to Adjutant and Inspector-General see Section 485.

2. Any vacancy in a County office, by reason of death, resignation, refusal, or neglect to qualify, of the person elected or appointed thereto, expiration of the term of office, or any other cause. The person so appointed to hold his office, in all cases in which the office is elective, until the next general election and until his successor shall qualify; and in cases of offices which are originally filled by appointment and not by election, until the adjournment of the session of the General Assembly next after such vacancy has occurred. The Governor may remove for cause any person so appointed by him to fill such vacancy.

Resignation from office: when complete.—State ex rel. Jernigan v. Stickley, 80 S. C., 70; 61 S. E., 211.

Four Commissioners for the South Carolina Institute for the Education of the Deaf, Dumb, and Blind.

Nine Regents of the State Hospital for the Insane, one of whom shall be appointed from each Congressional District, and the remainder shall be residents of Richland County.

Seven members of the State Board of Health, to be recommended by the State Medical Association.

Seven members of the Board of Harbor Commissioners Charleston Harbor, upon the recommendation of the Senator and members of the House of Representatives from Charleston County, or a majority of them, at least two of whom shall be seafaring men, and at least one of such sea-

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faring men shall be a full branch pilot of the port of Charleston; and all of whom shall be residents of the city of Charleston.

Members to fill any vacancy in the Board of Directors of the State Penitentiary occurring during the recess of the General Assembly.

Proxies to represent the shares of the State in the Cheraw and Coalfields Railroad Company and in the Cheraw and Salisbury Railroad Company.

The Chief Constable of the State, whensoever in his judgment any public emergency shall require it, or when necessary to the due execution of legal process.

One or more Commissioners for the Catawba Indians.

One Quarantine Officer for St. Helena entrance, and one for Port Royal entrance, at the Port of Beaufort, on the nomination of the Township Board of Health of Beaufort Township.

One Quarantine Officer for the Port of Charleston on the nomination of the Board of Health of the City of Charleston.

Regulation
for preven-
tion of entry
of Asiatic
cholera into
the State.

Civ. '02, §
626.

One Quarantine Officer for the Port of Georgetown upon the recommendation of the State Board of Health.

As many Notaries Public throughout the State as the public good shall require.

Commissioners of Deeds in the several States and Territories of the Union, and in the District of Columbia.

Board of Pardons.

Commission to Establish an Infirmary for Confederate Veterans.

Historical Commission.

Board of Fisheries.

Dispensary Auditor.

A State Bank Examiner.

A Board of Commissioners for the Promotion of Uniformity of Legislation in the United States.

Sec. 685. Full power and authority is given to the Governor to make, by proclamation, such regulations as in his opinion may be necessary to prevent the entrance of Asiatic cholera into this State, and the spreading thereof in this State.

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Governor may suspend sentence or parole prisoner.

Lieutenant-Governor; compensation of.

Civ. '02, § 627.

ec. 686. In any case that may be deemed proper by the vernal, he may suspend sentence or parole any prisoner in such terms or conditions as he may deem just in the exercise of executive clemency.
ec. 687. The Lieutenant-Governor, while presiding over Senate, shall receive a per diem of eight dollars and the mileage of a member of the General Assembly.

ARTICLE III.

THE SECRETARY OF STATE.

Sec. 688. Salary of : bond, duties, etc.
689. Office hours.
690. Penalty for false certificate.
691. Records of Superintendent of returns of Overmovers of Poor.
692. To make and report abstract Public Works: in charge of.
693. Is *ex-officio* Keeper of the State House.

Sec. 694. Deeds affecting railroad's property.
695. Probate of.
696. Recording same.
697. Certified copies of pardons to be filed with Clerks.
698. To report collections.

Section 688. The Secretary of State shall receive an annual salary of nineteen hundred dollars, and the fees or perquisites of the office shall be paid into the Treasury of the State. The Clerk of the Secretary of State shall receive an annual salary of thirteen hundred and fifty dollars.

Salary of.
Civ. '02, § 628.

The Secretary of State, before entering upon the duties of his office, shall execute a bond, with two or more good sureties, in the penal sum of ten thousand dollars, for the faithful discharge of the duties of his office.

Bond of.

The Secretary of State shall, during the absence of the Governor from Columbia, be placed in charge of the records and papers in the Executive Chamber. He shall keep in Columbia all the books, records, and papers belonging thereto. He shall hold his office in the State House in Columbia.

Sec. 689. He shall keep his office open from nine o'clock in the morning until three o'clock in the afternoon, every day in the year, Sundays and public holidays excepted.

Office records and papers of: papers of Executive Chamber.

Sec. 690. If any Secretary of State, or his deputy, shall certify, under his hand, that no sale, conveyance, or mort-

Civ. '02, § 629.

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When to keep
his office
open.Civ. '02, §
630.Penalty for
false certifi-
cate.Civ. '02, §
631.Records of
Superintend-
ent of Public
Works, in
charge of.Civ. '02, §
631.Reports of
Overseers of
Poor.Civ. '02, §
632.Is *ex-officio*
Keeper of the
State House:
duties and
compensation.Civ. '02, §
633: 1903,
XXIV, 633.Sergeant-at-
arms of Sen-
ate and House
to have charge
of the respec-
tive Cham-
bers.

gage of any particular goods or chattels, by any particular person is registered in his office, when, at the same time, there is such record, such Secretary or his deputy shall forfeit and pay to such person who made inquiry, and who is damaged by reason of such false certificate by him made, as aforesaid, all his damages and costs of suit which he shall sustain by reason of any second mortgage.

Sec. 691. The records, books, and papers belonging to the office of the late Superintendent of Public Works, are part of the records of said office, and the Secretary of State is authorized and required, upon the application of any person interested therein, to give certified copies of any deed, grant or other paper belonging to the said office, which said copies may be used in evidence in any court in this State, in like manner as office copies of other records are now used, and he is authorized to charge therefor the same fees as are now allowed by law for the like service.

Sec. 692. The Secretary of State shall, on or before the fourth Tuesday in November of each year, make out an abstract of the return made to him by the Overseers of the Poor of each city and County in the State, together with such explanatory remarks as he deems proper, and, through the Governor of the State, transmit the same to the Legislature.

As to his charge over State property, see Section 88, *ante*. Public Property.

Sec. 693. The Secretary of State is *ex officio* Keeper of the State House and is charged with the care of the entire property belonging to the State therein, and may make such repairs and improvements from time to time as may be necessary. He shall contract for and furnish all fuel and gas necessary for the offices of the Executive Department and for the General Assembly; and shall keep an account monthly of the gasometers and electric meters in the State House, and audit all accounts for furnishing gas for the use of the State House: *Provided*, The Sergeant-at-Arms of the Senate, and the Sergeant-at-Arms of the House of Representatives, shall take exclusive care and charge of the Senate Chamber and Hall of House of Representatives and Committee rooms, respectively, and be held responsible for their keeping and the keeping and protection of the furni-

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and furnishings belonging to them, packing such as they need packing, and occasionally inspect and care for the same during the recess of the General Assembly, and shall receive as compensation therefor the same mileage and per diem for each day actually engaged as he receives during the sessions of the Legislature: *Provided*, He shall not be paid more than ten days during any one year.

Sec. 694. All deeds of conveyance of railroad beds, tracks and right of way, cars, locomotive engines, rolling stock and other railway equipment, all leases and mortgages and other conditional sales of, and all other instruments in writing relating to, such property in this State delivered or executed on or after the first day of January, 1894, shall be valid, so as to affect from the time of such delivery or execution the rights of subsequent creditors or purchasers for valuable consideration without notice, only when recorded within forty days from the execution and delivery hereof in the office of the Secretary of State: *Provided*, nevertheless, That the above mentioned deeds, leases, mortgages and other conditional sales and instruments in writing, if recorded subsequent to the expiration of said period of forty days, shall be valid to affect the rights of subsequent creditors and purchasers for valuable consideration without notice only from the date of such record.

Deeds, etc., of railroads to be recorded.

Civ. '02, § 634.

In Secretary of State's office.

Good from date of record.

Each and every locomotive engine, car and other railway equipment shall have the name of the vendor, lessor, bailor or mortgagor plainly marked on each side thereof, followed by the word "owner," "lessor," "bailor," or "mortgagor," as the case may be; and each deed of conveyance, lease, conditional sale and mortgage of such railroad property shall contain such a description thereof as will correspond to the name so marked thereon.

Engines and cars to be marked.

Deeds, etc., to refer to marks.

Sec. 695. Before such deeds, leases, mortgages and other instruments in writing can be recorded by the Secretary of State, the execution thereof shall first be proved by the affidavit in writing of a subscribing witness to such instrument, in the same manner prescribed for the probate of deeds by Section 1240 of this Code in relation to the recording of deeds in the office of Register of Mesne Conveyances of the several Counties of this State.

Probate. Civ. '02, § 635.

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Books of record.

Civ. '02, § 636.

Fees for recording.

Certified copy receivable in evidence.

Entry of satisfaction.

Penalty for neglect.

Certified copies of pardons to be filed with Clerk of Court.

Civ. '02, § 637.

Secretary of State to report collections.

1905, 911.

Sec. 696. Said conveyances, leases and mortgages and other instruments in writing shall be recorded by the Secretary of State in books to be kept by law for that purpose in his office, and for such recording he shall receive from the party offering such papers for record the same fees allowed by law for similar work to Register of Mesne Conveyances.

A certificate or certified copy by the Secretary of State shall be competent evidence of such record and of the facts contained in each deed, lease and mortgage or other instrument in writing so recorded and certified in all of the Courts of this State.

Where any such mortgage so recorded shall be fully satisfied, the mortgagee shall note the same on the margin of the record, or declare the same to be satisfied in a separate instrument in writing, to be recorded as above provided, under a penalty of five hundred dollars, to be recovered in any Court of competent jurisdiction at the suit of the mortgagor or his assignees, or any other party aggrieved thereby.

See provisions as to recording railroad mortgages under law as to railroads.

Sec. 697. It shall be the duty of the Secretary of State immediately upon the granting to any person of any pardon by the Governor to transmit a certified copy of such pardon to the Clerk of the Circuit Court of the County in which such person was convicted, said certified copy of such pardon to be filed by such Clerk in his office.

Sec. 698. The Secretary of State shall, on or before the tenth day of each month, make an itemized report in writing to the Comptroller-General of all fees and funds derived from any source whatsoever in connection with his office; and shall at the same time pay over to the State Treasurer the amount shown by the said report to have been collected.

Each Clerk in the office of Secretary of State is required to give bond. See section.

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ARTICLE IV.

THE ATTORNEY-GENERAL AND SOLICITORS.

SEC.
 699. Salary of Attorney-General and of his assistant.
 700. Bond of.
 701. Appears for the State in Courts; when and in what cases.
 702. Prosecutes intruders on State's property.
 703. Advises Solicitors; attendance on Grand Jury and at trials, etc.
 704. Duty in respect to public charities; corporations.
 705. Assists the General Assembly; when and how.
 706. Advises State officers on questions of law.
 707. Reports annually to General Assembly.
 708. Contingent expenses of civil actions; provision for.
 709. No fees to be taken from prosecutors, etc.

SEC.
 710. Accounts to Treasurer for fees, etc.
 711. Solicitors, bonds of; vacancies in office of.
 712. Their salaries and duties.
 713. Salary.
 714. Compensation for attending General Assembly.
 715. Solicitor, when must be called on to defend rights of State.
 716. To sue for penalties.
 717. To examine certain County offices and report annually.
 718. To attend Courts of Sessions.
 719. Annual report to Comptroller-General as to debts due State in their possession; penalty.
 720. To furnish duplicate of such report.

Section 699. The Attorney-General shall receive a salary ^{Salary of, and of his assistant.} at the rate of nineteen hundred dollars per annum; and the Assistant Attorney-General, who shall be appointed by the Attorney-General, shall receive a salary of thirteen hundred and fifty dollars per annum. _{Civ. '02, § 638.}

Sec. 700. Before entering upon the duties of his office, the Attorney-General shall execute a bond, with two good sureties, to the State of South Carolina, in the sum of ten thousand dollars, for the faithful discharge of his office. _{Bond of. Civ. '02, § 639.}

Sec. 701. He shall appear for the State in the Supreme Court in the trial and argument in said Court of all causes, criminal and civil, in which the State is a party or interested, and in such causes in any court or tribunal, when required by the Governor or either branch of the General Assembly. _{Shall appear for the State in the Supreme Court. Civ. '02, § 640.}

Sec. 702. He may, when, in his judgment, the interest of the State requires it, file and prosecute informations or other process against persons who intrude upon the lands, rights, or property of the State, or commit or erect any nuisance thereon. _{May file information against persons who intrude on property of the State. Civ. '02, § 641.}

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Shall advise
the Solicitors
and attend
the Grand
Jury.

Civ. '02, §
642.

Sec. 703. He shall consult with and advise the Solicitors in matters relating to the duties of their offices; and when, in his judgment, the interest of the State requires it, shall assist them by attending the Grand Jury in the examination of any case in which the party accused is charged with a capital offence; and when, in his judgment, the interest of the State requires it, he shall be present at the trial of any cause in which the State is a party or interested, and, when so present, shall have the direction and management of such prosecutions and suits.

Commissioner v. Rose, 1 DeS., 461; ex parte Dunn., in re. Hand v. R. R. Co., 8 S. C., 207.

Protect pub-
lic charities
and prosecute
corporations.

Civ. '02, §
643.

Sec. 704. He shall enforce the due application of funds given or appropriated to public charities within the State, prevent breaches of trust in the administration thereof, and, when necessary, shall prosecute corporations which fail to make to the General Assembly the return required by law.

Shall advise
the General
Assembly.

Civ. '02, §
644.

Sec. 705. He shall, when required by either branch of the General Assembly, attend during their sessions, and give his aid and advice in the arrangement and preparation of legislative documents and business, and shall give his opinion upon questions of law submitted to him by either branch thereof, or by the Governor.

Shall advise
the State of-
ficers.

Civ. '02, §
645.

Sec. 706. He shall, when required by the Secretary of State, Treasurer, Adjutant and Inspector-General, the Comptroller-General, Railroad Commissioner, or other State officer, consult and advise with them, respectively, on questions of law relating to their official business.

Shall annu-
ally report to
General As-
sembly.

Civ. '02, §
646.

Sec. 707. He shall annually make a report to the General Assembly of the cases argued, tried, or conducted by him in the Supreme Court and Circuit Courts during the preceding year; with such other information in relation to the criminal laws, and such observations and statements, as, in his opinion, the criminal jurisdiction and the proper and economical administration of the criminal law warrant and require.

Governor to
draw warrant
on his repre-
sentation to
defray ex-
penses of cer-
tain civil ac-
tions.

Civ. '02, §
647.

Sec. 708. On his representation, the Governor may draw his warrant on the Treasury to an amount not exceeding three hundred dollars in one year, for the contingent expenses of civil actions in which the State is a party or has an interest, for which sum he shall, annually, in October,

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account to the Governor; and he shall state the amount so expended in his annual report to the General Assembly.

Sec. 709. No prosecuting officer shall receive any fee or reward from, or in behalf of, a prosecutor, for services in any prosecution or business to which it is his official business to attend, nor be concerned as counsel or attorney for either party in a civil action depending upon the same state of facts.

Neither he nor the Solicitors to take a fee from a prosecutor, nor appear in a civil case on same state of facts.

Civ. '02, § 648.

Sec. 710. The Attorney-General shall account with the Treasurer of the State for all fees, bills of costs and moneys received by him by virtue of his office.

Attorney-General to account to the Treasurer.

Sec. 711. The Solicitors, before entering upon the duties of their offices, shall, respectively, give bond, with two good sureties, to the State of South Carolina, in the penal sum of five thousand dollars, for the faithful discharge of the duties of their respective offices.

Civ. '02, § 649.

Vacancies in office of; bonds of.

Civ. '02, § 650; 1876, XVI, 152.

In case any Circuit Solicitor shall cease to reside in his circuit, his office shall become vacant. In case any vacancy shall occur in such office by death, resignation or otherwise, the vacancy thereby created shall be filled by the Governor, by and with the advice and consent of the Senate. The Judge residing in the Circuit of the Solicitor, whose office shall thus become vacant, shall certify such vacancy to the Governor.

Tenure of office.—State v. Jeter, 1 McC., 233; State v. Butz, 9 S. C., 156.

Sec. 712. Solicitors shall do the duty of the Attorney-General, and give their counsel and advice to the Governor and other State officers, in matters of public concern, whenever they shall be, by them, required to do so, and assist the Attorney-General, or each other, in all suits of prosecution in behalf of this State, when directed so to do by the Governor, or called upon by the Attorney-General. They may defend any person brought to trial before any criminal court of this State, when their duty shall not require them to prosecute such persons, or their assistance be not required against such person by the Governor or Attorney-General.

Shall do the same duty as Attorney-General in advising the Governor and the State officers; duty of in criminal cases.

Civ. '02, § 651.

Sec. 713. The Circuit Solicitors of the various Judicial Circuits of this State shall each receive an annual salary of seventeen hundred dollars (\$1,700.00), payable monthly; such salaries to be in lieu of all charges against the State and the Counties.

1906, 120.

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Compensation of Solicitors attending General Assembly.

1910, 755.

All costs from defendants shall be paid over by the Solicitor to the County Treasurer for the use of the State.

Sec. 714. Whilst in attendance upon the sessions of the General Assembly, Solicitors shall receive as compensation the sum of five dollars per day for each day of actual attendance, and mileage at the rate of ten cents per mile one way, for necessary travel in the discharge of their official duties, the same to be paid upon the certificate of the Solicitors as to number of days in attendance, and actual necessary miles traveled, said certificate to be approved for payment by the Attorney-General of the State.

To be called in by persons holding under the State to defend their rights, else the State not bound.

Civ. '02, § 652.

Sec. 715. In all cases wherein the right of the State may be involved; it shall be the duty of the persons claiming under the State to call on the Attorney-General, or Solicitors, in their respective districts, to defend the right of the State; on failure whereof, the record of such case shall not be adduced as evidence to substantiate any claim against the State.

To sue for penalties.

Civ. '02, § 653.

Sec. 716. It shall be the duty of the Attorney-General and Solicitors to sue for the penalties incurred by any public officer or board of public officers.

For authority to employ assistant counsel in actions on Dispensers' bonds, see Section 649, *ante*.

Attorney-General and Solicitors to examine the offices of County officers.

Civ. '02, § 654.

Sec. 717. The Attorney-General and Solicitors are required, annually, at such times as they may deem expedient, to examine into the condition of the offices of the Clerk of the Court of Common Pleas and General Sessions, of Sheriff, and Register of Mesne Conveyances, in their respective Counties, and to ascertain if the said officers have discharged the duties which now are, or shall be, required of them; and they shall make a report of the condition of the said offices, and of the manner in which said officers have discharged their duties, to the Circuit Court in each County, respectively, at the fall term in each year, and also to the General Assembly at its annual session.

Solicitors to attend Circuit Courts of their respective Counties.

Civ. '02, § 655.

Sec. 718. The Solicitors shall attend the Courts of General Sessions and Common Pleas for their respective Circuits.

Duties in Court.—State v. Barrantine, 2 N. & McC., 553; State v. Addison, 2 S. C., 365; State v. Coleman, 8 S. C., 237; State v. McNinch, 12 S. C., 95.

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To furnish
report to the
Comptroller.

Civ. '02, §
656.

Sec. 719. It shall be the duty of the Solicitors, on the last day of October, in every year, to furnish the Comptroller-General with a statement of all debts due to the State in their several possessions, showing the names of the debtors, the amount of debts, the interest, the payments made, and the balance due to the State; and if any of said officers fail to furnish the Comptroller-General with such statement, he shall forfeit and pay the sum of two hundred dollars, to be recovered by action in any court of law in this State having competent jurisdiction.

To furnish
duplicate re-
turns to
Comptroller.

Civ. '02, §
657.

Sec. 720. It shall be the duty of the Circuit Solicitors, in making their returns to the Comptroller-General, as by law directed, to make out and deliver to him, at the same time, fair duplicates thereof.

ARTICLE V.

STATE CONSTABLES.

Sec.
721. Chief State Constable: ap-
pointment; compensation;
may appoint deputies.

Sec.
722. Powers and duties of.
723. Powers of Governor over Con-
stabulary, etc.

Section 721. The Governor, whenever any public emergency shall require it, or when it shall become necessary to the due execution of legal process, shall appoint an officer to be known as the Chief Constable of the State, who shall receive as compensation, when actually engaged in the public service, five dollars per day and five cents per mile for each mile actually traveled in the performance of his duties, which duties shall be especially prescribed by the Governor.

State Con-
stable: ap-
pointment;
compensa-
tion: may ap-
point depu-
ties.

Civ. '02, §
658.

The Chief Constable is authorized to appoint Deputy Chief Constables, not exceeding two for each County, who shall receive two dollars per day when actually on duty, and as many Deputy Constables as may be necessary, who shall serve without pay.

Duties of.

Civ. '02, §
659.

Sec. 722. The Chief Constable of the State, and the Deputy Chief and Deputy Constables in the Counties, shall exercise all the common law and statutory powers of Constables, and all authority given to the police or watchmen

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by the Statutes of the State, and by the charters and ordinances of incorporated towns and cities, concurrently with such officers. Said Chief Constable of the State, and Deputy Chief and Deputy Constables in the several Counties, shall, at all times, obey and execute the orders of the Governor in relation to the preservation of the public peace and the execution of the laws throughout the State; and it shall be their duty to see that the laws are observed and enforced, and shall especially use their utmost effort and endeavor to repress disorder and prevent crime.

Powers of
the Governor
over the Con-
stabulary.

Civ. '02, §
660.

Sec. 723. The Governor shall have authority, whenever in his judgment it shall be necessary, to arm the Constabulary, and, in any emergency, to assume the sole control of the whole, or any part, of the municipal police in cities and incorporated towns; and to authorize the Chief Constable of the State, or any Deputy Chief Constable, to command assistance in the execution of process, suppressing riots, and in preserving the peace.

Liability on Constables' bonds.—*Wieters v. May*, 71 S. C., 9; 50 S. E. 547; *Smith v. Lafar*, 67 S. C., 491; 46 S. E., 332.

ARTICLE VI.

NOTARIES PUBLIC.

Sec.

724. Governor appoints Notaries
Public; term of office.

725. Oath of.

726. Seal of.

Sec.

727. Powers of.

728. No jurisdiction in criminal
cases.

Governor ap-
points Notar-
ies Public;
term of office.

Civ. '02, §
662.

Section 724. The Governor is authorized to appoint as many Notaries Public throughout the State as the public good shall require, to hold their offices during the pleasure of the Governor, and whose jurisdiction shall extend throughout the State.

Oaths of.

Civ. '02, §
663.

Sec. 725. Every Notary Public shall take the oath of office prescribed by the Constitution and the oath with respect to duelling, certified copies of which oaths shall be recorded in the office of the Secretary of State.

Sec. 726. He shall have a seal of office, which shall be

fixed to his instruments of publication and to his protestations; but the absence of such seal shall not render his acts invalid, provided his official title be affixed.

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Seal of.

Civ. '02, § 644.

Sec. 727. He shall have power to administer oaths, take depositions and affidavits, protests for non-payment of bonds, notes, drafts and bills of exchange, take acknowledgments and proofs of deeds and other instruments required by law to be acknowledged, and take renunciation of dower.

Powers of.

Civ. '02, § 645.

As to protests.—Williamson v. Turner, 2 Bay, 410; Williamson v. Patterson, 2 McC., 132; Dobson v. Laval, 4 McC., 57; Halls v. Howell, Harper, 426; Johnson v. Harth, 2 Ball., 183; Bank v. Green, 2 Ball., 230; Bank v. Stinemetz, 1 Hill, 44; Bank v. Flagg, 1 Hill, 177; Thompson v. Bank, 3 Hill, 77; Ib., Riley, 81; Aiken v. Cathcart, 2 Speers, 642; Greene v. Talley, 39 S. C., 338; 17 S. E., 780.

Sec. 728. He shall exercise no power or jurisdiction in criminal cases.

No jurisdiction in criminal cases.

Civ. '02, § 666.

ARTICLE VII.

COMMISSIONERS OF DEEDS.

Sec.

729. Commissioners of Deeds; appointment and term of.

730. Oath of; where filed; notice.

731. Authority of.

732. Power to administer oath.

Sec.

733. Foreign Notaries; same power as to affidavits, etc.; proviso.

734. Former commissions and acts validated.

Section 729. The Governor of the State is authorized to appoint and commission, in the several States and Territories of the Union, and in the District of Columbia, and in foreign countries, as many persons as he may deem expedient, as Commissioners of Deeds, who shall hold their office during the pleasure of the Governor.

Appointment of.

Civ. '02, § 667.
1906, 126.

Sec. 730. Every Commissioner, before he proceeds to perform any duty, shall take and subscribe an oath or affirmation before any officer authorized to administer oaths in the city or County in which such Commissioner shall reside, well and faithfully to execute and perform all the duties of such Commissioner, under and by the laws of South Carolina, which oath or affirmation, and the written appointment of such commissioner, shall be filed in the office of the

Qualification of.

Civ. '02, § 668.

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Secretary of this State, who shall give notice of such appointment in one or more of the gazettes of this State.

Authority
of.

Civ. '02, §
669.

Sec. 731. A Commissioner of Deeds shall have authority to take renunciation of dower, and the acknowledgment of proof of any deed, mortgage, or other conveyance of any lands, tenements, or hereditaments, lying or being in this State, or of any contract, letter of attorney, or any other writing under seal, to be used and recorded in this State; and such renunciation, acknowledgment, or proof, when certified to by the hand and seal of such Commissioner, shall have the same force and effect as if taken before the proper officers within this State.

Powers of.

Civ. '02, §
670.

Sec. 732. Every Commissioner shall have full power to administer an oath or affirmation to any person who shall be willing or desirous to make such oath or affirmation before him; and such oath or affirmation made before such Commissioner shall be as good and effectual, to all intents and purposes, as if taken by any Magistrate resident in this State, and competent to take or administer the same.

Force of ju-
rat of Notar-
ies Public in
other States.

Civ. '02, §
671.

Sec. 733. All verifications of pleadings, affidavits, and proofs of claims made before Notaries Public in other States shall have the same force and effect as they would have if sworn to before a Commissioner of Deeds for this State resident in another State: *Provided*, Such Notary Public shall use his official seal.

Testimony certified by foreign notary under his official seal admissible.—
Greene v. Talley, 39 S. C., 338; 17 S. E., 780.

Commissions
to Commis-
sioners of
Deeds valid.

Sec. 734. All commissions to Commissioners of Deeds for South Carolina, wherever located, issued prior to the first day of January, 1896, are hereby declared to be and remain in full force and effect, notwithstanding the proclamation of the Governor revoking same, on March 20th, 1901, and said Commissioners, and the acts of all Commissioners, heretofore or hereafter done while acting under same, shall be of the same force and effect as if said commissions had never been revoked.

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ARTICLE VIII.

THE COMPTROLLER-GENERAL.

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| <p>735. Bond of; salary; office hours.</p> <p>736. Examines Treasurer's vouchers.</p> <p>737. Examines Treasurer's cash and books.</p> <p>738. Superintends transfer of money, etc.</p> <p>739. Prepares annual estimates for General Assembly.</p> <p>740. Payments of Treasurer to be on his warrant; exception.</p> <p>741. To keep duplicates of books of Treasurer and report balance sheet to General Assembly.</p> <p>742. To keep record of settlements with County Treasurers.</p> <p>743. To report to General Assembly statement of County taxes.</p> <p>744. To report also as to moneys due State.</p> <p>745. Also on account of persons having distribution of public money.</p> <p>746. Also names of pensioners of State.</p> | <p>Sac.</p> <p>747. Also as to unappropriated funds in Treasury.</p> <p>748. Office books; how paid for.</p> <p>749. Duty as to defaulting County Treasurers.</p> <p>750. Enters in books accounts of persons distributing public money.</p> <p>751. Collates and publishes monthly returns of banks.</p> <p>752. To publish returns of banks of issue; form of.</p> <p>753. To enforce forfeitures against defaulting banks, may examine books; when.</p> <p>754. To insure the University buildings.</p> <p>755. To furnish offices to State officers.</p> <p>756. May extend time of assessment and collection of taxes, etc.</p> <p>757. When to pay County Auditors.</p> <p>758. Furnishes State Printer copies of reports for publication.</p> |
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Section 735. The Comptroller-General shall, before he enters upon the duties of his office, give bond for the faithful discharge of the duties thereof, with one or more sureties, to be approved of by the Governor for the time being, in the sum of thirty thousand dollars. He shall receive an annual salary of nineteen hundred dollars, and the fees and perquisites of the office shall be paid in to the Treasury of the State. He shall keep open and attend to his office from nine o'clock in the morning until two o'clock in the afternoon on every day, Sundays, public holidays, and the two next succeeding days to Christmas excepted.

Bond of, of-
fice hours of.
Civ. '02, §
672.

His Chief Clerk and his Auditing Clerk, both to be appointed by him, shall each receive an annual salary of fourteen hundred dollars. The Clerk of the State Board of Pensions, to be appointed by him, shall receive an annual salary of six hundred dollars. It shall be the duty of the Auditing Clerk, under the direction and supervision of the Comptroller-General, to keep the phosphate and insurance

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records in the Comptroller-General's office, visit the various Counties of the State, and to visit the various penal, charitable and educational institutions of the State, and report on the conditions of the books of the same, when required by the Comptroller-General, and inspect and report on the condition of the books of the various County officers of the State, and assist the Comptroller-General in making the annual settlements with County officers.

The Clerks are required to give bond. Section —.

How appropriations are noted by.

Civ. '02, § 673.

Examination of Treasurer's books by the Comptroller-General.

To examine books of the Treasurer.

Civ. '02, § 674.

Must personally superintend transfer of books and money by Treasurer to his successor.

Civ. '02, § 675.

Must prepare annual estimates for the General Assembly.

Civ. '02, § 676.

All payments by Treasurer to be on his warrant, except, etc.

Civ. '02, § 677.

Sec. 736. It shall be his duty to keep a book in which all appropriations by the General Assembly shall be entered, with all payments made under them; he shall also keep another book, properly indexed, in which he shall enter all contingent accounts allowed by the General Assembly, and the time at which payment on the same shall be made. The Comptroller-General shall between the first and the tenth day of each month examine the vouchers in the office of the State Treasurer for all payments made by the Treasurer during the preceding month.

Sec. 737. The books of the Treasurer of the State shall, at all seasonable times, be open to the inspection and examination of the Comptroller-General, and he shall, twice in each year, and at such other times as he shall deem necessary, examine the cash in the Treasury at Columbia.

Sec. 738. He shall personally superintend, except in the event of his being sick, and thereby rendered unable to attend, the transfer of money and papers from the office of the Treasurer to his successor, and report to the General Assembly thereon at their next session.

Sec. 739. He shall prepare and report at every session of the General Assembly estimates of the public revenue and public expenditures; and shall, at the same time, render fair and accurate copies of all the Treasurer's reports, and a true and accurate account of the actual state of the Treasury.

Sec. 740. All payments by the State Treasurer, except for interest on the public debt, and the pay of officers, members, and attaches of the General Assembly, shall be made on warrants drawn by the Comptroller-General, and the vouchers for the same must be filed in his office.

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Sec. 741. The Comptroller-General shall keep a set of books, exhibiting the separate transactions of the Treasury department, which set of books shall be a transcript of the books of the Treasury, constituting a complete check upon the office; and the Comptroller shall, in addition to the exhibits of cash transactions of the Treasury, annually report to the General Assembly a balance sheet of the books aforesaid, setting forth as well by whom debts are due to the State as the amount of those debts.

Must keep duplicate of books of the Treasurer, and report balance sheet to the General Assembly.

Civ. '02, § 678.

Sec. 742. The Comptroller-General shall enter the abstract for settlement with the several County Treasurers of this State in a book to be kept by him for such purpose, and shall enter all settlements made by such Treasurers herein as to all taxes—State, school, County and special—and the same shall be a part of the records of his office.

Abstract to be entered in book.

Civ. '02, § 679.

And kept as record.

Sec. 743. He shall prepare and present to the General Assembly, at an early period in every session, a correct and detailed statement of all the taxes, real and personal, for which each of the Counties of the State shall be liable under the Tax Acts of each year. He shall, at the same time, report the amount of the local taxes collected in each County.

Must report to General Assembly of County taxes.

Civ. '02, § 680.

He cannot be compelled by mandamus to levy a tax to pay "Revenue Bond Scrip," issued under Act 2d March, 1872.—State v. Comptroller-General, 4 S. C., 185.

To report to General Assembly all moneys due the State.

Civ. '02, § 681.

Sec. 744. He shall lay before the General Assembly, with his annual report, a statement of all moneys due to the State.

Sec. 745. He shall examine and annually report to the General Assembly on the accounts of all persons having the distribution of public money.

Examine and report on accounts of persons having distribution of public money.

Civ. '02, § 682.

Sec. 746. He shall make an annual report to the General Assembly of the names of the pensioners of the State.

Report names of pensioners.

Civ. '02, § 683.

Sec. 747. The Comptroller-General shall report, annually, to the General Assembly, his transactions in regard to unappropriated funds in the Treasury.

Sec. 748. The books necessary for the office of Comptroller-General shall be paid for out of the Treasury of the State.

Sec. 749. The Comptroller-General shall immediately commence and pursue, against all County Treasurers

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Shall annually report undistributed funds.

Civ. '02, § 685.

Procure books for Treasurer.

Civ. '02, § 686.

Pursue defaulting County Treasurers, Attorney-General and Solicitor of the Circuit to conduct the proceedings.

Civ. '02, § 687.

Enter in his books accounts of all persons distributing public money.

Civ. '02, § 688.

Shall collate monthly returns of the banks.

Civ. '02, § 689.

Shall publish returns of banks, form of return.

reported by the Treasurer as being in default in making their returns, such legal measures as will be best calculated to compel an immediate compliance with the duty imposed upon them in regard to such returns, and shall enforce the performance of their duty generally by all legal means. The Attorney-General and the Solicitor of the Circuit in which such default may occur shall conduct such legal proceedings when called upon to do so by the Comptroller-General.

Sec. 750. He shall enter in books, kept for that purpose, such a statement of the accounts of persons having the distribution of public money, (directed by law to be rendered to him,) as will enable him, at any time, to show how said accounts stand between the parties respectively.

Sec. 751. The Comptroller-General shall collate the various statements in the monthly returns made to him by the banks, so as to present a comparative view of all the items thereof, and shall publish the same in some public newspaper, for general information. Every bank failing to make such return shall forfeit to the use of the State, to be recovered by the Comptroller by action, twenty-five dollars for each and every day's neglect.

Sec. 752. The Comptroller-General shall, at least once in every month, collect the accounts of the weekly state of their circulation and specie, rendered by the several banks of issue, in conformity with law, and publish the same, so collected, in some newspaper, in the following form:

Weekly Statement of Circulation and Specie of Banks of Issue in South Carolina, from the.....day of.....to the.....day of.....eighteen hundred and.....

NAME OF BANK.			NAME OF BANK.			NAME OF BANK.		
Date	Circulation	Specie	Date	Circulation	Specie	Date	Circulation	Specie

And any banks, the officers whereof shall neglect to transmit to the Comptroller-General any such accounts aforesaid, shall forfeit one hundred dollars for each and every day during which the same shall be neglected, to be recovered by action, at the suit of the State.

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Sec. 753. It shall be the duty of the Comptroller-General, whenever it appears that any bank, or any officer of a bank, has incurred any forfeiture for any official misconduct, to cause suit to be brought against such bank or officer, by the Attorney-General or the Solicitor of the Circuit in which such bank is situated, for the recovery of the same. And in case he shall, at any time, have cause to suspect that a false or incorrect account has been rendered to him by any bank, he shall have authority, and it shall be his duty, to make a personal examination of the books of such bank, in order to ascertain the truth.

Shall direct prosecution of defaulting banks.

Civ. '02, § 690.

Sec. 754. The Comptroller-General shall, annually, insure against fire the buildings of the University of South Carolina.

Shall insure the University buildings.

Civ. '02, § 691.

Sec. 755. The Comptroller-General of the State is authorized and directed, upon his receipt of a written application from any officer of the State Executive Department, to provide and furnish an office for the use of said officer, and the expense thereof shall be paid by the State Treasurer, out of the contingent fund of the State, on the warrant of the Comptroller-General.

Shall furnish office room to State officers.

Civ. '02, § 692.

Sec. 756. The Comptroller-General, with the approval of the Governor, may extend the time for the performance of the duties imposed upon the County officers or for the assessment and collection of taxes; and when such assessment and collection of taxes are necessarily delayed, the Comptroller-General may postpone the time within which the penalties imposed by law would attach.

May extend the time for assessment and collection of taxes.

Civ. '02, § 693.

Sec. 757. The Comptroller-General should not issue to any Auditor his warrant for the salary of such Auditor, until all abstracts and reports due from or by such Auditor have been filed in the office of the Comptroller-General.

When to pay County Auditors.

Civ. '02, § 694.

Sec. 758. The Comptroller-General shall furnish to the State Printer, for publication in the Reports and Resolutions of the General Assembly, copies of all reports passed at each session and filed in his office.

Shall furnish State Printer copies of all reports for publication from his office.

Civ. '02, § 695.

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ARTICLE IX.

THE STATE TREASURER.

SEC.

- 759. Salary of; and of his clerks.
- 760. Bond.
- 761. Office hours.
- 762. How payments by are made.
- 763. How interest on State stock is to be paid.
- 764. How lost checks replaced.
- 765. When transfer books to be closed.
- 766. Coupons in Treasurer's hands sufficient vouchers.
- 767. Coupons to be paid in Charleston also.
- 768. Monthly report to Comptroller of cash transactions, etc.
- 769. To make monthly reports of Dispensary funds to State Board of Control.
- 770. Warrant against defaulting County Treasurer; proceedings on.
- 771. Additional penalty.
- 772. Further duties as to defaulting County Treasurers.
- 773. Certain appropriations not to be drawn until contract lodged.
- 774. Same; how paid.
- 775. To open account in books for each appropriation.
- 776. Copies from books of, evidence.
- 777. To issue triplicate receipts for money paid him; how disposed of; penalties.
- 778. To report disbursements to Comptroller daily.
- 779. To write off checks two years old.
- 780. May keep safe in bank for deposit of moneys.
- 781. Must deposit other moneys in bank; in what banks, etc.
- 782. Banks to make quarterly statements.
- 783. Quarterly statement of deposits.
- 784. Banks to make monthly statements of receipts and payments; to whom.

SEC

- 785. Treasurer to exhibit books; when and to whom.
- 786. Examination of warrants by Joint Committee of General Assembly.
- 787. Majority may act.
- 788. Pay of members of.
- 789. Treasurer's duties as to funds for educational purposes.
- 790. How State Institutions may draw appropriations.
- 791. Appropriations; how paid.
- 792. Salaries paid monthly.
- 793. Statement to General Assembly.
- 794. To whom payment to be made.
- 795. Governor's contingent fund.
- 796. Militia.
- 797. Attorney-General.
- 798. Railroad Commission.
- 799. State House.
- 800. Public buildings.
- 801. Prizes for farmers.
- 802. South Carolina Live Stock Association.
- 803. Eradication of cattle tick.
- 804. South Carolina Agricultural Society.
- 805. Unused moneys to remain in Treasury.
- 806. Supreme Court.
- 807. Board of Fisheries.
- 808. Health Department.
- 809. University of South Carolina.
- 810. Catawba Indians.
- 811. State Hospital for Insane.
- 812. Penitentiary.
- 813. Pensions.
- 814. Election notices.
- 815. Public printing.
- 816. Clemson College.
- 817. Historical Commission.
- 818. General Assembly.
- 819. Where no direction given; how paid.
- 820. Certain officers may borrow.

Salary of,
and of his
clerks.

Civ. '02, §
696.

Section 759. The Treasurer of the State shall receive a salary at the rate of nineteen hundred dollars per annum. And he shall employ a Chief Clerk at a salary of fifteen

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hundred dollars per annum; and two bookkeepers, the salary of each to be at the rate of thirteen hundred and fifty dollars per annum.

Sec. 760. The Treasurer shall, before entering on the duties of his office, give bond, with two or more good and sufficient sureties, to be approved by the Governor, with a condition for the faithful discharge of his official duties, and in the penal sum of ninety thousand dollars.

Bond of.
Civ. '02, §
697.

Sec. 761. The Treasurer shall keep open and attend in his office from nine o'clock in the morning until two in the afternoon on every day, Sundays, public holidays, and the two succeeding days to Christmas excepted.

Office hours
of.
Civ. '02, §
698.

Sec. 762. All payments by the Treasurer of the State, except for interest on the public debt and the pay of members, officers and employes of the General Assembly, shall be made on warrants drawn by the Comptroller-General, and the vouchers for the claims shall be filed in his office. The said warrants in the hands of the Treasurer, properly endorsed, shall be sufficient vouchers for the payment of the same.

How payments by
are made.
Civ. '02, §
699.

Sec. 763. The Treasurer shall pay the semi-annual interest upon all recognized Brown Consol or Blue four and one-half per cent. or Brown four per cent. stock of this State in manner following, that is to say: To every person or persons in whose names certificates of such stock are held, whose postoffice address is furnished to the said Treasurer, or which he is able to obtain, he shall send by mail at least two days before the first days of January and July, respectively, in every year, checks drawn payable to the order of such person or persons, as the case may be, for the amount of interest due to him or them respectively. Such checks shall be payable at some bank or other financial agency, either in Columbia, Charleston or other financial point, to be selected by the said State Treasurer upon consultation with the Governor and Comptroller-General, according as either of the said cities or other financial points may be nearest to the postoffice address of such person or persons to whom such checks may be sent. And such checks, when returned to the Treasurer duly endorsed by the person or persons to whom the same were made payable, shall be taken and considered

How interest
on State stock
is to be paid.
Civ. '02, §
700.

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How lost
checks re-
placed.

Civ. '02, §
701.

as a sufficient and absolute voucher and receipt in his hand for the payment of the amount of interest specified therein.

Sec. 764. In case any check mailed in accordance with the provisions of the last Section shall be lost and shall fail to reach the person to whom the same has been mailed, the State Treasurer shall, upon satisfactory proof to him of the fact of such loss, and upon receiving a bond of indemnity with sufficient surety, approved also by the Attorney-General, in an amount double the sum for which said check was drawn, issue to the said person his duplicate check for the sum for which the original check was drawn, which duplicate check shall state upon its face that it is a duplicate, and that it is payable only in case the original check is unpaid. And such duplicate check, duly endorsed, shall be as sufficient a voucher in the hands of the Treasurer, the original being unpaid, as the original check would have been.

When trans-
fer books to
be closed.

Civ. '02, §
702.

Sec. 765. To facilitate the payment of interest in the manner hereinbefore prescribed, the State Treasurer is authorized to close the books of transfer of said stock for thirty days prior to the first days of July and January in each and every year, during which period no changes or transfers of such stock will be allowed.

Coupons in
Treasurer's
hands suffi-
cient vouch-
ers.

Civ. '02, §
703.

Sec. 766. No receipt or voucher need be taken by the Treasurer upon the payment of coupons of any recognized Brown Consol or Blue four and a half per cent. or Brown four per cent. bonds of this State, other than the delivery to him of the coupons so paid, which shall be held and deemed sufficient vouchers for such payment.

Coupons to
be paid in
Charleston
also.

Civ. '02, §
704.

Sec. 767. The Treasurer is authorized and directed to arrange for the payment at maturity of the coupons of recognized Brown Consol, or Blue, or Brown four per cent. bonds of this State in the City of Charleston in addition to the other places now fixed by law.

Monthly re-
port to the
Comptroller
of cash trans-
actions, etc.

Civ. '02, §
705.

Sec. 768. He shall, at the end of every month, report to the Comptroller-General an accurate statement of the cash transactions of the Treasury, of every description, stating therein every sum of money received or paid away in behalf of the State, particularizing the person and his office of whom received and to whom paid, as also on what account received, and for what purpose paid.

He shall, at all times, when required by the Comptroller-General, produce to him satisfactory statements of the cash

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hand, and furnish him promptly with official information, duly certified, relative to any matter connected with the revenue and finance of the State.

Sec. 769. In order to facilitate the keeping of the accounts of the State Dispensary, it shall be the duty of the State Treasurer, on the first days of each and every month, to transmit to the State Board of Control a statement of all moneys received by him upon account of the State Dispensary during the preceding month, and a statement of all Dispensary warrants paid by him during said month, said statement to contain the number and amount of all warrants so paid, their dates and the names of the payees, together with a statement of the balance in the State Treasury to the credit of the State Dispensary on the first day of said month.

State Treasurer to make monthly reports to the Board of Control.

Civ. '02, § 706.

Sec. 770. Any County Treasurer who shall neglect to pay over to the Treasurer the amount in his hands belonging to the State, or for which he has made himself liable, as required by law, shall be liable to be committed to jail by warrant from the Treasurer, which warrant shall be directed to all the Sheriffs of the State, who shall be bound in their several Counties to yield strict obedience to the same, under penalty of liability for neglect of duty; and such County Treasurer shall remain in strict custody until he shall have rendered a full account, and paid over the taxes for which he is accountable.

Duties of against defaulting County Treasurers.

Civ. '02, § 707.

Sec. 771. If any County Treasurer shall refuse or neglect to pay the taxes received by him within the time required by law, the Treasurer shall, in addition to the coercive power which he now possesses, charge the County Treasurer with interest, at the rate of five per cent. per month, from the time he ought to have paid the taxes to the time of such settlement.

Shall charge them with interest.

Civ. '02, § 708.

Sec. 772. The Treasurer shall report to the General Assembly, at its annual session, every instance of default in the County Treasurers, and state particularly the means which he has made use of against such defaulters, so that the General Assembly may be fully informed of any omission of duty, wheresoever and by whomsoever, in the punctual and due collection of taxes; he shall instruct the Attorney-General and Solicitors to proceed against all such defaulters, as soon as such defaults occur; and it shall be the

Shall report to General Assembly names of such defaulters and the steps taken against them.

Civ. '02, § 709.

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indispensable duty of the Treasurer to enforce all legal means against defaulting County Treasurers; in failure whereof, he shall be held to make good any loss which the State may sustain thereby, and be, moreover, liable to be deemed guilty of a violation of his official duty.

How appropriations shall be drawn.

Civ. '02, § 710.

Sec. 773. No appropriation placed under the direction of any Board of Commissioners shall be drawn from the Treasury until the contract entered into by the Commissioners in virtue thereof shall have been lodged in the Treasury.

How appropriations shall be drawn.

Civ. '02, § 711.

Sec. 774. The Commissioners shall be authorized to draw one-third of the appropriation placed under their direction in advance, one-third when the contract is half finished and the balance when the work is completed and received by the Commissioners: *Provided*, That in no case shall Commissioners be allowed to draw upon any contract which is not intended to carry into complete execution all the objects for which the appropriation shall be made by the Legislature, and which objects shall be embraced by the terms of the contract.

Must raise in his books an account for each appropriation.

Civ. '02, § 712.

Sec. 775. The Treasurer shall raise an account in the Treasury books, in every instance, for the several appropriations made by the Legislature, so that the appropriations of money and application thereof conformably thereto may appear clearly and distinctly on the Treasury books.

Copies of books to be evidence.

Civ. '02, § 713.

Sec. 776. An exact copy of any entry from the books of the Treasurer, certified by the Treasurer, shall be admitted in evidence in any Court of this State, in the same manner as the original books.

State Treasurer to give duplicate receipts.

Civ. '02, § 714.

1905. 969.

Sec. 777. The Treasurer, on receiving money from the County Treasurers on account of State taxes and phosphate companies on account of phosphate royalty, or from any other person or persons whomsoever, on any account shall issue duplicate receipts for the same, one of which shall be designated the original and the other the duplicate. The original shall be held by the person or persons making the payment of the money to the Treasurer, for his protection, and the duplicate shall be immediately sent to the Comptroller-General of the State by the State Treasurer, who shall from such duplicate receipt make up a cash book upon which he shall charge the State Treasurer with having

Original to payer.

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received the amount so evidenced by said duplicate receipt. The said State Treasurer shall designate on the face of each receipt on what account the money has been paid, so that the Comptroller-General may be enabled to charge the said Treasurer separately with such amounts. If the State Treasurer shall neglect to furnish receipts, as aforesaid, he shall forfeit and pay a sum not exceeding two hundred dollars, nor less than fifty dollars, to be recovered in any Court having jurisdiction thereof, and the Comptroller-General, upon information made to him, shall take the necessary measures to cause the same to be recovered.

Comptroller-General to charge State Treasurer.

Sec. 778. The State Treasurer shall, at the close of business on each day, send to the Comptroller-General a report of all moneys paid out by him, to whom paid and on what account, except that paid upon warrants of the Comptroller-General.

Daily reports by State Treasurer.

Civ. '02, § 715.

As to examination of Treasurer's vouchers by the Comptroller-General.— See Section 736, *ante*.

Sec. 779. All checks issued by the State Treasurer for the payment of claims, if not presented for payment within two years from date thereof, the amounts thereby represented shall be covered back into the State Treasury and such checks written off of the books of the State Treasurer; *Provided*, Any check may be reissued upon satisfactory proof of non-payment.

To write off checks two years old.

1904, 498.

Sec. 780. The Treasurer of the State shall have a safe in the vaults of one of the banks of the City of Columbia, designated by the Governor, the Treasurer, and the Comptroller-General, and may place and keep therein moneys belonging to the State.

Safe in bank.

Civ. '02, § 716.

Sec. 781. To facilitate the disbursement of the public moneys, the Treasurer of the State shall deposit in such bank or banks in this State as shall be agreed upon by the Governor, the Comptroller-General, and the Treasurer, or by any two of them, and as in their opinion shall be secure, all the moneys belonging to the State, other than he may keep in the safe in the vault of one of the banks in the City of Columbia, as authorized in Section 780, the moneys so deposited to be placed to the credit of the Treasurer of the State of South Carolina. He shall keep a bank book showing his

Deposit of State moneys.

Civ. '02, § 717.

To credit of Treasurer.

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Bank book.

deposits in and moneys drawn from the banks in which deposits are made.

Banks having on deposit State funds to make quarterly statements to the Treasurer.

1903, XXIV, 20.

Penalty for failure to render statement.

State Treasurer to publish a quarterly statement of money on hand and where deposited.

1903, XXIV, 21.

Banks to report deposits monthly.

Civ. '02, § 718.

Must exhibit bank book to Comptroller and Governor monthly, at least.

Civ. '02, § 719.

How made.

Civ. '02, § 720.

Who can act.

Civ. '02, § 721.

Sec. 782. Each bank which has funds of the State on deposit shall, on or before the fifth day of January, April, July and October, respectively, in each year render to the State Treasurer a certified statement showing the balance or balances on hand to the credit of the State at the close of business on the last day of the preceding month: *Provided*, This shall not conflict with existing rule of the Financial Board requiring monthly statements from State depositories. That in case any bank shall fail to render such statement, without good cause shown, it shall be the duty of the Treasurer to at once withdraw all State deposits from such bank and close its account.

Sec. 783. The State Treasurer shall publish, quarterly, in one daily paper in the City of Columbia, a statement showing the amount of money on hand and in what banks the same is deposited, and the respective funds to which the same belongs.

Sec. 784. The said banks shall, respectively, transmit to the Governor and Comptroller-General monthly statements of the moneys which shall be received and paid by them on account of the Treasury.

Sec. 785. The Treasurer shall exhibit his bank book to the Comptroller-General and Governor, for their examination, on the first Tuesday in every month, and oftener, if required.

As to examination of accounts by Joint Committee of General Assembly.— See Section 79, *ante*.

Sec. 786. The Joint Committee of the General Assembly shall also compare the warrants drawn by the Comptroller-General, or any other officer, on the Treasury during the year ending on the said 31st day of December preceding, with the several laws under which the same shall purport to have been drawn, and shall, in like manner, certify and report whether the Comptroller-General or other officer had power to draw such warrants; and if any shall be found which, in their opinion, there was no power to draw, they shall specify the same in their report, with their reasons for such opinion.

Sec. 787. A majority of the members of such Committee may perform all the duties required by law of the Committee.

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Sec. 788. The members of the Committee shall receive the same compensation from the Treasury, for services and travel required to be performed by them, as is allowed to members of the General Assembly.

Compensation
of Committee.Civ. '02, §
722.

Sec. 789. The State Superintendent of Education shall take and hold in trust for the State any grant or devise of lands, and any gift or bequest of money or other personal property made to him for educational purposes, and he shall pay into the State Treasury, for safe keeping and investment, all moneys and incomes from property so received. The Treasurer of the State shall, from time to time, invest all such moneys in the name of the State, and shall pay to the State Superintendent of Education, on the warrant of the Comptroller-General, the income or principal thereof as he may, from time to time, require: *Provided*, That no disposition shall be made of any grant, devise, gift, or bequest inconsistent with the conditions or terms thereof. For all such property, his bond shall be responsible as for other funds received by him in his official capacity.

Duties of
Treasurer
with regard
to funds for
educational
purposes.Civ. '02, §
723.

As to quarterly payment of State moneys by State officers into the State Treasury.—See Section 675, *ante*.

Sec. 790. The appropriation made for a State institution shall be paid to the Treasurer of the institution, who shall be a bonded officer, the amount of the bond not to be less than the amount to be drawn at any one time, and to be fixed by the governing Board, the bond to be approved by the Attorney-General as to its form and execution, and by the Governor as to its sufficiency, and to be filed with the State Treasurer. The Treasurer of the institution shall draw his receipt warrant upon the Comptroller-General for the amount needed, which receipt warrant shall be countersigned by the President or Superintendent of the institution, and have attached thereto an itemized sworn statement showing the purposes in detail for which the money to be drawn is to be used monthly only, and all money for other purposes to be drawn only when actually owing and due.

How State
institutions
must draw ap-
propriations.Civ. '02, §
724.

Upon the receipt by the Comptroller-General of the receipt warrant, signed and countersigned, and with statement attached as above provided, the Comptroller-General shall issue his warrant on the State Treasurer in favor of

How war-
rants for shall
be drawn.

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the Treasurer of the institution for the amount drawn, and the State Treasurer shall pay the same, the amount thereof to be charged to the appropriation account of such institution by the Comptroller-General and the State Treasurer.

REGULATION OF APPROPRIATIONS.

Appropriations:
how paid.

Sec. 791. The several amounts appropriated from year to year to meet the ordinary expenses of the State shall be paid by the State Treasurer out of the usual income of the State and any unexpended balance in his hands not otherwise appropriated, in the manner prescribed by Section 740, and conformably with the terms of the remaining sections of this Article.

Salaries paid
monthly.

Sec. 792. The amount specified for salaries and clerical services of the officers and employees of the State shall be paid in monthly installments.

Statement
to be made
to General
Assembly.

Sec. 793. The amounts specified for the various officers of the State and for various public purposes, other than for salaries and clerical services, shall be duly accounted for; a detailed statement thereof shall be made to the General Assembly at its next ensuing session. No person authorized to make contracts or draw said appropriations shall exceed the specific appropriations, nor shall any fund be expended for any other purpose than that for which it may be appropriated. All accounts shall be itemized and verified.

To whom
payment to
be made.

Sec. 794. The amounts specified for the various educational, penal and charitable institutions of the State shall be paid to the respective executive heads thereof.

Governor's
contingent
fund.

Sec. 795. That out of the appropriation for contingent fund of the Governor for rewards and other purposes the Governor be allowed to use as much as five hundred dollars, to pay the actual expenses incurred by him in attending meetings of the different boards of which he is a member *ex officio*, and also to pay his actual expenses when attending meetings or conventions or other gatherings in the interest of the State.

Appropriations
for
militia.

Sec. 796. The appropriation for assisting military companies to maintain their organization shall be subject to the following conditions: All encampments shall be held within the State, unless otherwise required by the Federal Government; the said sum shall be distributed by The Adju-

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Adjutant-General in accordance with the militia laws of the State shall be paid out to the captain of each company for distribution upon the warrant of the Comptroller-General; which warrant shall be issued when the apportionment of each company shall have been certified to the Comptroller-General by The Adjutant-General, and shall be countersigned by the captain of the company to which the apportionment shall have been made.

Sec. 797. The appropriation for the Attorney-General ^{Attorney-General.} for the expenses of litigation shall be subject to the following conditions: The Attorney-General shall conduct all litigation which may be necessary for any department of the State Government or any of the boards connected therewith, and all such boards or departments are hereby forbidden to employ any counsel for any purpose except through the Attorney-General and upon his advice; out of said fund the Attorney-General shall pay for dockets and blank indictments for the several circuit solicitors, and such other expenses as he may deem advisable.

Sec. 798. The appropriation for the Railroad Commis- ^{Railroad Commission.} sioner's office shall be advanced by the State until the same shall have been collected from the corporations liable therefor and when collected shall be placed in the State treasury.

Sec. 799. The offices of electrician and engineer of the ^{State House.} State House shall be consolidated, the appointment to be made by the Governor, subject to removal by him; he shall receive compensation for seven months at \$100 per month and for five months at \$75 per month; he shall attend to the boilers, engines and other appliances at least once every fifteen days; he shall do all repairing of wiring, fixtures, fuses, etc., for all State buildings and property in Columbia, and the compensation stated shall be in full for all additional help employed by him and for attendance upon lighting and heating the State House during the sessions of the General Assembly; the firemen of the heating apparatus of the State House shall be appointed by him and be subject to removal by him; one fireman shall receive compensation for seven months at \$65 per month, for five months at \$50 per month; the other, for two months at \$40 per month; the electrician and engineer of the State House shall also purchase the fuel for heating the State House, upon com-

CIVIL CODE

Advertisement in two papers in the city of
ek for one month.

Amounts specified for expenses in connection
buildings of the State shall be itemized
contractors and certified to by the respective
thereof.

Amount specified for prizes for farmers
as State prizes for the farmers of the
er and participate in a contest for the
per acre. All rules and regulations
test, and the distribution of the prizes
of the appropriation shall be under the
ol of the Commissioner of Agriculture,
ustries, and the president and the pro-
re of Clemson College, who shall con-
his purpose.

Amount specified for the South Carolina
tion shall be expended for printing the
annual meetings of the association and to
ributing the same among the farmers of
copy to each member of the General

Amount specified for eradication of cattle
out of any funds in the hands of the trus-
icultural and Mechanical College, and to
m in carrying out the provisions of the

Amount specified as a loan to the South
al Society shall be paid upon the execu-
y said society of its note for said amount
le, twelve (12) months after date, with
t six per cent.

Monies appropriated to provide buildings
e colleges shall remain in the State treas-
shall be needed for the actual erection
uildings for which the appropriation is

Amounts specified for expenses connected
Court shall be paid upon the approval
Chief Justice. The Justices of Supreme
authorized, in their discretion, to exchange

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old or duplicate editions of books in said library for other books, to be selected by said justices.

Sec. 807. The amount specified for the Board of Fisheries shall be expended as follows: For salary of chairman of Board of Fisheries, eighteen hundred (\$1,800) dollars, and the remainder for other expenses of said board. As remuneration for the services required of them by law the County Treasurers of Beaufort, Colleton, Charleston, Georgetown and Horry Counties, shall each be paid by the State Treasurer, upon the warrant of the Comptroller-General, each year, from the moneys collected and paid into the State treasury by him under the provisions of the Act regulating the Board of Fisheries, three per cent. of the amount so collected by him during that year. The provisions of the Act of 1908, for compensation of the Treasurer of Beaufort County in this behalf, is hereby repealed.

Board of fisheries.

Sec. 808. The amounts specified for various expenses in connection with the Health Department shall be expended under the direction of the State Board of Health. The appropriation for carrying out the quarantine laws shall be expended under the supervision and by the consent of the Governor: *Provided*, That the Governor is authorized, in case of emergencies demanding it, to borrow seven thousand dollars additional.

Health Department.

Sec. 809. The children of professors of the University of South Carolina shall be exempt from tuition fees; that there shall be one scholarship for each County in the Normal Department, being of the value of \$100 each, besides the remission of tuition and matriculation fees, the beneficiaries to be selected under regulations to be prescribed by the Board of Trustees on the warrant of the Comptroller-General: *Provided*, That suitable courses of study are provided in the said institution for the deserving of both sexes.

University of South Carolina.

Sec. 810. The appropriation for the Catawba Indians shall be paid upon application of the agent: *Provided*, That said agent, before receiving his warrant, shall enter into bond in the sum of four thousand dollars, with security to be approved by the Governor, for the faithful discharge of his duty in the disbursement of any funds which may hereafter come into his hands. The said funds shall be divided among the Catawba Indians living in South Carolina: *Pro-*

Catawba Indians.

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vided, That the agent shall not receive exceeding three per cent. for receiving and disbursing any funds which may come into his hands as provided above. The Secretary of State shall issue the commission to said agent without charge; the appropriation for schools for the same shall be expended through their agent under bond as above specified.

State Hos-
pital for In-
sane.

Sec. 811. The Regents of the State Hospital for the Insane shall each receive four dollars per day for each day actually engaged in attending the meetings of the said board, and mileage at five cents per mile actually traveled.

Penitentiary.

Sec. 812. The balance in the hands of the directors of the State Penitentiary at the close of any year, together with all other amounts received, or to be received, from the hire of convicts or from any other source during the current fiscal year, are appropriated for the support of the penitentiary. The Superintendent of the Penitentiary be required, when called upon by the keeper of the State House and Grounds, to furnish such convict labor as he may need to keep said State House and Grounds in good order.

Pensions.

Sec. 813. The appropriation for pensions is made for the purpose of carrying out the provisions of "An Act to provide for the relief of certain soldiers and sailors, and widows of certain soldiers and sailors of late war between the States," approved December 24, 1887, or Acts amendatory thereto, said appropriation to be paid at such time during the fiscal year as may be designated by the State Board of Pensions: *Provided*, That the Pension Board shall, before paying out any amount appropriated, revise the whole list of pensions, and only those to be found in actual need of support, whose names are now on the list, or may hereafter be put thereon, shall receive pensions; and it shall be the duty of the Pension Board to permit applicants for pensions show by competent evidence that they are in actual need of support, and that the property they possess does not provide such support, either by reason of its condition or by their physical inability to make it so: *Provided, further*, That the Governor, Comptroller-General and Treasurer be, and they are hereby, authorized to borrow from time to time such amounts as may be necessary to meet this appropriation: *Provided, further*, That the Comptroller-General is

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authorized to issue his warrants to the Clerk of the Court of the several Counties, for such amounts as may be determined

belonging to the pensioners of such county, to be disbursed by him according to law: *Provided*, That no sale, transfer, or assignment of any pension, except by the written order of the county pension commissioner, shall be valid: *Provided*, That all expenses incurred in the distribution of said fund shall be paid out of the appropriation for pensions.

Sec. 814. No more shall be charged or paid for any notice of election published in any newspaper than one dollar for seventy-five words for the first insertion and fifty cents for seventy-five words for the second or subsequent insertion, and the Secretary of State shall provide the form of notice for printing blanks, etc., for general election. Election notices.

Sec. 815. The appropriation for public printing shall include such sum or sums as may be authorized to be drawn from the State Treasury during any session on account of public printing for that session, and no amount in excess of the amount appropriated for any year shall be drawn or expended, any existing law to the contrary notwithstanding. The sum of \$800 of the amount appropriated, if so much be necessary, shall be applied to the payment of and for binding the Acts, Journal and Reports and Resolutions of the General Assembly. Public printing.

Sec. 816. The Clemson Agricultural and Mechanical College shall analyze in its chemical laboratory all samples of rock, minerals, earths, and water received from the Geologist for such constituents as may be designated, and shall make returns of such analysis to him upon completion of the same. The order in which analyses shall be made shall be that in which the samples are received from the State Geologist. The expenses of the analyses for the State Geologist shall be paid out of funds of said college. Clemson Agricultural and Mechanical College.

Sec. 817. In addition to the appropriation for printing historical records, the Historical Commission may use therefor the proceeds of sale of historical publications now on hand or hereafter issued by them: *Provided*, That one copy of each publication issued be sent to each of the State institutions of learning, and an account of sales of publications be filed with their report to the General Assembly. Historical commission.

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General Assembly.

Sec. 818. That the amounts specified for expenses connected with the General Assembly shall be paid by the State Treasurer upon the certificates of the Clerk of the Senate, attested by the President of the Senate, or of the Clerk of the House of Representatives, attested by the Speaker, or of the Chief Clerk of the Engrossing Department, as the case may be.

Where no direction given; how paid.

Sec. 819. Where no direction is given in this Article as to the manner in which a specific appropriation shall be paid, the same shall be paid under the direction of the Governor and the Attorney-General in such manner as will safeguard the interests of the State.

Certain officers may borrow.

Sec. 820. That in anticipation of the taxes hereinbefore levied, the Governor and the State Treasurer and the Comptroller-General be, and they are hereby, empowered to borrow on the credit of the State so much money from time to time as may be needed to meet promptly at maturity the interest which shall mature on the first day of July and on the first day of January of each year, on the valid debt of the State, and to pay the current expenses of the State government for the current fiscal year, and for pensions: *Provided*, That the sum so borrowed shall not exceed five hundred thousand (\$500,000) dollars.

ARTICLE X.

THE STATE LIBRARIAN AND BOARD OF TRUSTEES OF STATE LIBRARY.

SEC.

- 821. Election and term of office.
- 822. Duties.
- 823. Salary.
- 824. Oath and bond.
- 825. Board of Trustees of State Library.

SEC.

- 826 and 827. Powers of Board.
- 828. Unbound volumes.
- 829. Empowered to sell certain books.
- 830. Trustees to report to General Assembly.

State Librarian: how elected and term of office.

Civ. '02, § 725.

Section 821. The General Assembly shall elect a State Librarian, whose term of office shall be for two years, and until a successor shall be elected and qualified.

Sec. 822. The State Librarian shall have the charge and responsibility for the safe keeping of the property of the

be committed into the care of the said officer, and shall perform the duties required by, and shall otherwise act under the direction of the Board of Trustees as hereinafter constituted.

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Duties of.

Civ. '02, § 726.

Sec. 823. The salary of said officer shall be eight hundred dollars, and it shall be due and paid as the salaries of other officers are due and paid.

Salary of.

Civ. '02, § 727.

Sec. 824. The State Librarian, before entering upon the duties of the office, shall take and subscribe the oath prescribed in Section 26 of Article III of the Constitution, and shall also enter into a bond with the State, to be approved and filed with the State Treasurer, in the sum of two thousand dollars, for the faithful discharge of the trust posed.

Oath of office and bond of.

Civ. '02, § 728.

Sec. 825. The Governor, the Secretary of State and the Superintendent of Education, and their successors in office, *ex officio*, shall constitute a Board, to be designated and known as the Board of Trustees for the State Library, and shall be vested with the duties and powers hereinafter conferred to conduct, care for and foster the State Library so as to enhance its usefulness to the citizens of the State.

Board of Trustees for the State Library.

Civ. '02, § 729.

Sec. 826. The said Board shall have the power of expending any moneys appropriated for the increase of the State Library in the purchase of suitable books and other matter of a literary and scientific nature and works of art appropriate to a complete library, as in the exercise of discretion may seem to be for the interest of the State Library. The Board shall also have the power to make convenient rules for its care and management, which shall be printed and publicly displayed within the library hall, and so regulate the conduct of the State Library as may best advantage the citizens of the State and increase its usefulness.

Powers of Board.

Civ. '02, § 730.

Sec. 827. The said Board of Trustees shall be empowered to accept and retain donations of books and other property adding to the value of a public library, whether the donation be absolute or in trust, temporary or indefinitely, and shall likewise receive and disburse any funds obtained by gift, will or otherwise for the use of the State Library.

Duties and powers of.

Civ. '02, § 731.

Sec. 828. It shall be the duty of the said Board of Trustees to be caused to be bound any unbound volumes deposited in the State Library that in its judgment may be necessary,

Duty as to unbound volumes.

Civ. '02, § 732.

A. D. 1912.

and shall cause the same to be stamped as the property of the State. The cost of binding, which may not exceed the price charged by contract with the State at the time of such work, shall be paid out of the State Treasury upon the warrant of the said Board of Trustees.

Empowered
to sell certain
books.

Civ. '02, §
733.

Sec. 829. The said Board of Trustees are hereby empowered to sell any books of any kind, in the nature of public documents, or surplus books of other kinds, whether bound or unbound, in the State Library, at a fixed and reasonable price, and the proceeds of sales of the same shall be invested from time to time by the said Board in books for the increase of usefulness of the State Library: *Provided*, That sufficient copies be retained for the use of the General Assembly and for free distribution among public libraries and the governments of other States and of the United States.

Trustees to
report to Gen-
eral Assembly
annually.

Civ. '02, §
734.

Sec. 830. The Board of Trustees for the State Library are required annually to make a report of the proceedings of the Board and the condition of the Library in its charge to the General Assembly, with any recommendations that may seem for the advancement of the interests of the Library.

ARTICLE XI.

THE STATE GEOLOGIST.

Sec.

- 831. Appointment, term, etc.
- 832. Duties.
- 833. Compensation.
- 834. Fuller specific duties.

Sec.

- 835. Annual report.
- 836. State cabinet of geological specimens.
- 837. To furnish institutions of learning with specimens.

State Geolo-
gist to be
appointed;
term; remov-
al from of-
fice.

Civ. '02, §
735.

Section 831. The Governor, by and with the advice and consent of the Senate, shall appoint, for a term of two years, a State Geologist, who shall have the qualifications of a good moral character and a competent knowledge of scientific and practical Geology and Mineralogy: *Provided*, The Governor may remove the State Geologist, for cause, at any time, and appoint a successor, whose appointment shall be confirmed by the Senate at its next session.

Sec. 832. The duty of the State Geologist shall be to continue and extend the investigations already made into the geological structure and resources of the State.

Sec. 833. The compensation of the State Geologist shall be one hundred and twenty-five dollars per month, and for necessary assistance, and for expenses a sum not to exceed seven hundred and fifty dollars per annum, payable monthly, the said salary and pay for assistance and expenses to be paid by the State Treasurer monthly out of any funds not otherwise appropriated, on the warrant of the Comptroller-General, based on itemized and verified statements of the services and expenses submitted to and approved by the Governor.

Sec. 834. It shall be the duty of the State Geologist to study and determine as nearly as possible the number and extent of the various formations of the State, to represent the same, from time to time, upon properly constructed maps and diagrams; to study the modes of occurrence and the distribution of the useful minerals and products of these formations; to determine the chemical composition and structure of the same; to investigate the soils and water supply of the State; and to give attention to, locate and describe phosphate deposits, useful building stone, kaolin material for brick, for cement and other substances useful or valuable to the citizens of the State.

Sec. 835. The State Geologist shall make, and submit to the Governor, on or before the first day of January of each year, a report covering his work of the preceding year, and the report shall be transmitted to the General Assembly, to be printed in the same manner as other public documents, or as shall be otherwise ordered.

Sec. 836. The State Geologist may from time to time collect geological specimens for a State Cabinet, and is hereby authorized to procure, at the expense of the State, when needed, suitable cases for such Cabinet, not to exceed fifty dollars, payable as provided for his other expenses, to be located in the Legislature Library Hall or other suitable place in the State House, to be designated by the Secretary of State; of which Cabinet, when established, the State Geologist shall be the curator.

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Duties.
Civ. '02, §
736.

Compensation.
Civ. '02, §
737.

Duties.
Civ. '02, §
738.

Report.
Civ. '02, §
739.

Specimens.
Civ. '02, §
740.

A. D. 1912.

State Geologist to furnish institutions of learning with specimens of minerals.

1903, XXIII,
22.

Sec. 837. The State Geologist furnish to Clemson Agricultural and Mechanical College as many duplicate specimens of minerals collected by him as may be practicable. *Provided*, Said College shall pay transportation charges.

ARTICLE XII.

DEPARTMENT OF AGRICULTURE, COMMERCE AND INDUSTRIES

SEC.

- 838. Department of Agriculture, Commerce and Industries created.
- 839. Commissioner; appointment and qualifications.
- 840. Compensation; clerk.
- 841. Annual report.
- 842. Duties.
- 843. Publication of information.
- 844. Transportation arrangements.
- 845. Other departments to furnish information.
- 846. Not to interfere with other departments, etc.
- 847. Not to bring immigrants into State.
- 848. Annual report on labor.
- 849. Schedule of inquiries to be mailed manufacturers.

SEC.

- 850. When answers to be filed.
- 851. Information to be furnished.
- 852. May send for papers, etc.
- 853. Reports confidential.
- 854. Two inspectors to be employed.
- 855. Examinations by inspectors.
- 856. Factories to have suitable closets.
- 857. Children forbidden to do certain work.
- 858. Statement to be obtained regarding children under age.
- 859. Powers of inspectors; duties.
- 860. Blanks furnished by Comptroller-General.
- 861. Expenses.

Department of Agriculture, Commerce and Industries created.

1904, XXIV,
449; 1909,
XXVI, 191.

Appointment of commissioner.

Section 838. A State Department of Agriculture, Commerce and Industries is created, which shall be charged, as far as possible, with the execution of the work usually devolved upon a bureau of industries, a bureau of agriculture and a bureau of publicity.

Sec. 839. The Governor, by and with the consent of the Senate, shall appoint for a term of four years, a Commissioner of Agriculture, Commerce and Industries, who shall have the qualifications of a good moral character and a competent knowledge of agriculture, manufacturing, publicity and general industries: *Provided*, The Governor may remove the Commissioner for cause at any time and appoint a successor in like manner. The Commissioner shall be empowered to appoint a competent clerk, whose qualifications shall be the same as required by the Commissioner.

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Sec. 840. The compensation of the Commissioner of Agriculture, Commerce and Industries shall be \$1,900 per annum, and that of the clerk \$1,000 per annum, payable monthly by the Treasurer, on the warrant of the Comptroller-General.

Compensation.

Sec. 841. The Commissioner shall make and submit to the Governor, on or before the tenth day of January of each year, a report covering the department's work of the preceding year, and the report shall be transmitted to the General Assembly, printed in the same manner as other public documents, or as shall otherwise be ordered.

Annual report.

Sec. 842. The Commissioner shall be charged with all work looking to the promotion of agriculture, manufacturing and other industries, cattle raising, and all matters tending to the industrial development of the State, with the collection and publication of information in regard to localities, character, accessibility, cost and modes of utilization of soils and more specifically to the inducement of capital by the dissemination of information relative to the advantages of soil and climate, and to the natural resources and industrial opportunities offered in this State; that he shall also collect from the farmers and landowners of the State and list information as to lands, stating the number of acres, location, the terms upon which they may be bought; that a land registry shall be kept, and in connection therewith, from time to time publication shall be made, descriptive of such listed agricultural, mineral, forest and trucking lands and factory sites as may be offered to the department for sale or share, which publication shall be in attractive form, setting forth the County, Township, number of acres, names and addresses of owners, and such other information as may be helpful in placing inquiring home-seekers in communication with landowners.

Duties.

Sec. 843. The Commissioner shall collect and collate in the form of a hand-book of the State, to be issued when practicable, information showing the nature and industrial resources and advantages of the State of South Carolina, dealing with soil, climate, raw and manufactured products, agricultural and horticultural products, textile fabrics, manufacturing industries, mines and mining, native woods, means of transportation, cost of living, the market and all

Publication of information.

A. D. 1912.

Transportation arrangements.

material and social advantages for those seeking homes and investments in agricultural or manufacturing industries.

Sec. 844. The Commissioner be empowered to make such arrangements with oceanic and river steamship companies in this country and abroad as may best serve the interest of the commerce of the State.

Other departments to furnish information.

Sec. 845. In order to facilitate the collection and collation of each information of the resources of the State on all lines, the heads of the several departments of the State government and of the State institutions are hereby required to furnish accurately such information as may be at their command to the Commissioner when called upon for the same. The Commissioner is hereby empowered to enter manufacturing establishments, chartered by the State, in prosecution of this work, and that the corporations operating same shall furnish such information as may not be injurious to their business.

Not to interfere with other departments, etc.

Sec. 846. Nothing in this Article contained shall be so construed as to repeal or interfere with the duties or work of the Chemist or Faculty of Clemson Agricultural and Mechanical College, the State Geologist, or any other department of the State government of South Carolina.

Sec. 847. The Commissioner of Agriculture, Commerce and Industries shall not directly or indirectly attempt to bring immigrants into the State.

Annual report.

Sec. 848. He shall collect, assort, systematize and present in a report to the Governor, on or before the fifth day of January of each year, who shall transmit it to the General Assembly, statistical details relating to all departments of labor in this State, such as the hours of labor, cost of living, supply of labor required, estimated number of persons depending on daily labor for their support. Said statistics may be classified as follows:

Classification of statistics.

1. Agriculture.
2. In manufacturing and mechanical industries.
3. In transportation.

In clerical and all other skilled and unskilled labor not above enumerated.

5. The amount of capital invested in lands, buildings, machinery, material, and means of production and distribution generally.

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6. The number, age, sex and condition of persons employed; the nature of their employment; the number of hours of labor per day, and the wages received in each of the industries and employments enumerated.

7. The sanitary conditions of factories, foundries, machine shops, mercantile establishments, where five or more people are employed as laborers.

8. The number, condition and nature of employment of the inmates of the State prison, County jails and reformatory institutions, and to what extent their employment comes in competition with the labor of artisans and laborers outside of these institutions.

9. All such other information in relation to labor as may seem advisable to further the object sought to be obtained by this Article.

Sec. 849. The Commissioner shall annually, on or before the first day of November, transmit by mail to the owner, operator or manager of every manufacturing establishment in this State a schedule embodying inquiries as to—

Schedule of inquiries to be mailed to manufacturers annually.

1. Name of person, partnership or corporation.
2. Kinds of goods manufactured or business done.
3. Number of partners or stockholders.
4. Capital invested.
5. Average number of persons employed, distinguishing as to sex, adults, and children under sixteen years of age.
6. Total wages, not including salaries of managers, paid during the year, distinguishing as to sex, adults, and children under sixteen years of age.

Sec. 850. The owner, operator or manager of every establishment which is engaged in manufacturing shall answer the inquiries thereon for the twelve months, November 1st to October 31st preceding, and return said schedule to the Commissioner on or before the fifth day of December following receipt of said schedule.

When answers thereto to be filed.

Sec. 851. It shall be the duty of all State and County officials, every employer of labor, and every person engaged in any industrial pursuit, to give to the Commissioner, or his agents, all necessary information to enable him to perform the duties herein required of him.

Information to be furnished.

Punishment for impeding Commissioner, Agents or Inspectors. See Criminal Code, 479.

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Commissioner may send for papers, take testimony, etc.

Sec. 852. The Commissioner shall have power to send for persons or papers whenever in his opinion it is necessary, and he may examine witnesses under oath, being duly qualified to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in the office of the Commissioner; he and his agents and inspectors shall have free access to all places where five or more people are employed as laborers.

Reports to commissioner confidential.

Sec. 853. No use shall be made in the reports of the Commissioner of the names of individuals, firms or corporations supplying the information called for by this Article, such information being deemed confidential and not for the purpose of disclosing any person's affairs.

See Criminal Code, Section 478, for violation of this section.

Two inspectors to be employed.

Sec. 854. Said Commissioner may employ two inspectors, who shall be appointed by the Commissioner at a salary of ten hundred dollars each per annum and necessary traveling expenses, not to exceed two hundred dollars each in any one year, to assist him in the discharge of the duties imposed by this Article from and including Section 848 to the end of this Article. The inspectors shall be under the supervision and control of the Commissioner.

Examinations by inspectors.

Sec. 855. The Commissioner, his agents and inspectors, may enter all buildings and parts thereof which are subject to the provisions of this Article and examine the methods of protection from accidents, the means of escape from fire, the sanitary provisions and the means of ventilation, and may make investigations as to the employment of children and women.

Factories to be provided with suitable water closets.

Sec. 856. Every factory, mercantile or other establishment or office where two or more males and two or more females are employed together, shall be provided with a sufficient number of separate water closets, earth closets or privies, for the use of each sex, and plainly so designated; and no person shall be allowed to use a closet or privy which is provided for persons of other sex. Such water closets, earth closets or privies, shall be kept clean and free from disagreeable odors.

For violation of this Section, see Criminal Code, Section 419.

Children forbidden to do certain work.

Sec. 857. It shall be the duty of each corporation or other employer to place in one or more conspicuous places in each

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of the factory in which any children under fourteen of age are employed a notice or notices to the effect that children are forbidden to clean any gears, cams or wheels, or to clean in dangerous proximity thereto, while the same are in motion by aid of steam, water, electricity or mechanical power; and no such employer, or its superintendent, overseers or agents shall knowingly or negligently permit or consent to such children so cleaning or touching moving parts.

Violation of this Section see Criminal Code, Section 418.

858. Every person, firm or corporation employing children shall procure from the parent, guardian, or person in custody of said child or children, a signed statement in which shall be recorded the name, birthplace, age and place of residence of every such child under fourteen years of age, and the same shall be produced for inspection on demand of the Commissioner or his agents or inspectors.

Statement
to be obtained
regarding
children under
age.

859. The inspectors appointed under this Article are authorized to visit and inspect, at reasonable hours, and as far as practicable, the factories, workshops and other establishments in this State referred to in this Article, and to report to the Commissioner the result of their inspection. They shall enforce the provisions of this Article and punish all violations of the same.

Powers
inspectors.

860. All blanks and forms required by the Commissioner under this Article shall be furnished by the Comptroller-General.

Blanks.

861. Inspectors provided for in this Article shall keep and furnish to the Comptroller-General and Commissioner itemized statements of necessary expenses incurred in enforcing this Article. And all the money paid out under this Article shall be on a warrant of the Comptroller-General.

Expenses.

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ARTICLE XIII.

STATE BOARD OF ENTOMOLOGY.

Sec.

862. State Board of Entomology.

863. Powers; rules and regulations.

864. Entomologist; duty.

865. Compensation.

866. Power to destroy infested trees; treatment thereof; appeal.

Sec.

867. All stock to be inspected annually.

868. Foreign dealers to furnish certificate.

869. Issue of certificate.

870. Investigations.

State Board
of Entomol-
ogy.

Section 862. On or before April the 1st, 1901, and every two years thereafter, the Board of Trustees of Clemson College shall designate three members of the said Board, who shall constitute and be known as the State Board of Entomology, and who shall be charged especially with the execution of the provisions of this Article.

Powers.

Sec. 863. That the said Board is hereby authorized and empowered to make such rules and establish such regulations consistent with the laws of this State and of the United States, for the government of the inspection, certification, sale, transportation and introduction of trees, plants, shrubs, cuttings, buds, vines, bulbs or roots, that the said Board may deem necessary or advisable to prevent the introduction or dissemination of destructive insects, plant diseases, and the Mexican boll weevil.

Entomolog-
ist to be ap-
pointed.

Sec. 864. That the said Board shall have power to appoint an Entomologist who shall be a skilled horticulturist, and an assistant Entomologist, if in their judgment it shall be impracticable for the Entomologist so to be appointed to discharge the duties hereby devolved upon him; and such Entomologist shall act as an inspector under the provisions of this Article; and it shall be the duty of said Board to promulgate rules and regulations in accordance with this Article for the guidance of said Entomologist, and his assistant, if one shall be appointed, in the duties devolving upon him under the provisions hereof.

Compensa-
tion.

Sec. 865. That the said Board shall fix the salary of said Entomologist, and his assistant, if one shall be appointed; the said salary shall be paid out of the funds now provided by law for the uses of Clemson College; and in addition to said salaries such expenses as the said Board may allow, for

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ing and other incidental expenses of the Entomologist's assistant, and the issuing of reports or other publications, shall be paid out of the funds provided for the uses of the College.

866. The Entomologist shall have power, under the provisions of the said Board, to visit any section of the State where insects injurious to or destructive of plants are found to exist, and shall determine whether any infested trees or plants or vineyards are worthy of remedial treatment or should be destroyed; and he shall report his findings in writing to the owner of the premises where such infested trees or plants or vineyards are situated, or to his agent or attorney, and a copy of his report shall also be submitted to the said Board. In case of objection to the finding or report of the Inspector, an appeal may be had to the said Board, which shall have the power to summons witnesses and hear testimony on oath, and whose decision shall be final. Upon the finding of the Inspector in any case of infested trees or plants or vineyards, the treatment prescribed by him shall be executed by the owner of the premises, unless an appeal is taken, and the cost of material incident to such treatment shall be borne by the owners of the premises: *Provided, however,* That in case the trees or plants or vineyards shall be condemned by the Inspector, they shall be destroyed by his direction by the owner of the premises, and the expenses of such action shall be borne by the owner of the premises.

Criminal Code, Section 506.

Entomologist may enter premises. See Criminal Code, Section 504.

Other offenses connected herewith, see Criminal Code, Sections 506, 507, 508, and 509.

867. That all fruit growers, nurserymen or corporations residing in this State, dealing in or handling fruit annually, shrubs, cuttings, vines, bulbs or roots, shall be compelled to have his or their or its stock inspected annually, before the 1st day of November of each year. If upon inspection such stock is found to conform to the requirements of said Board, the Inspector shall furnish a certificate to that effect; or if such stock does not conform to the requirements of said Board, then the said Inspector shall cause the same to be destroyed, at the expense of the owner thereof.

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l persons or corporations residing with
State, dealing in trees, plants, cutting
ts, shall register his, their or its name
is, their or its certificate of inspection
tomologist or Inspector or duly author
ate in which he, they or it resides, with
e said Board, which shall state that, in
n, the nursery stock has been fumigated
of the official issuing the certificate
ply with this requirement, any of said
e shipped into this State may be con
by the authority of the said Board.
ling the proper certificate as above pre
quest of any person or persons residing
this State, dealing in or handling trees
es, bulbs or roots, in this State, the cer
Board of Entomology will be issued to
arge, and official tags, bearing the *fact*
certificate and the seal of the Board of
furnished such applicants at cost.

transportation. See Criminal Code, Section 508.

wo or more reputable citizens of any
notify the Chairman of the State Board
noxious insects or plant diseases exist
hall be his duty to have the Entomolo
igate the matter, and take such steps as
cribed in this Article and by the State
y.

ARTICLE XIV.

BOARD OF PARDONS.

	Sec.
treated.	876. Duty of Board.
embers.	877. Regular meetings.
.	878. Compensation of members.
	879. Powers of Board.
to keep a	880. To hold no other office.
ngs.	

e shall be a Board of Pardons, to con
t persons, citizens of this State, to be
overnor.

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2. One of the said Board shall be appointed for and until his successor shall be appointed and one shall be appointed for two years, and until his shall be appointed and qualified; and one for three until his successor shall be appointed and qualified which times the terms of office shall be three that the term of one member thereof shall expire

Term of office of members.

3. The members of said Board shall be commissioned with other constitutional officers, and shall be required to take the oaths of office required of other State officers.

To be commissioned.

4. One member of said Board, who shall be the President, shall reside in the city of Columbia. One of the members shall be selected by the Board to act as Chairman. He shall serve as such until his term shall expire. Every member shall be eligible for reappointment.

Officers of Board.

5. Within thirty days from their appointment, the Board shall meet in the city of Columbia and organize, and shall notify the Governor of their readiness to consider all petitions he may see fit to lay before them. They shall keep a complete record of all their proceedings, and shall be subject to the orders of the Governor, or the General Assembly.

Meetings of Board, to keep a record of proceedings.

6. It shall be the duty of said Board to consider all petitions for pardons or commutation of sentence which may be referred to them by the Governor, and to make their recommendation to the Governor regarding the same. *Provided*, The Governor may or may not adopt such recommendation; but in case he does not, he shall submit his recommendation to the General Assembly: *Provided, further*, That the Governor may act on any petition without reference to the Board.

Duty of the Board.

7. Said Board shall hold regular meetings at least once each year, beginning on the first Wednesdays of January, April, July and October, respectively, and as many other meetings as the Governor may, through the Secretary, require.

Regular meetings.

8. The members of said Board shall receive as compensation for their services the sum of four (4) dollars per day they shall be in session, not to exceed twenty dollars per month, and ten cents per mile, one way, for the most direct route to and from the place of meeting.

Compensation of members.

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Powers of
Board.

route to and from such meeting; said sum to be paid by State Treasurer on warrant of the Comptroller-General.

Sec. 879. Said Board shall have authority to preside at its meetings, and to punish any disrespect or contempt committed in its presence. A majority of said Board shall constitute a quorum for the transaction of business, and a majority shall rule in all its deliberations. The members of said Board shall hold no other public office than that of Notary Public.

ARTICLE XV.

BOARD OF FISHERIES.

Sec.

- 880. All beds of rivers, etc., State property.
- 881. Board of Fisheries; appointment; qualification.
- 882. Oath and bond.
- 883. To establish an office.
- 884. Duties of Board.
- 885. Authority of Board.
- 886. Salary of Chairman and compensation of members.
- 887. Duty of Chairman.
- 888. Records; annual report; recommendations.
- 889. Appropriation.
- 890. Inspectors; salaries; bond; authority.
- 891. Duties of the Board.
- 892. Duties and powers of the County Treasurers.
- 893. Blanks for reports.

Sec.

- 894. Operation and custody of launches.
- 895. Repairs and maintenance of launches.
- 896. Duty of person desiring to plant oysters; rent.
- 897. Leases of lands.
- 898. Duty of those occupying oyster beds.
- 899. Oysters, etc., deemed property and chattels.
- 900. Tax upon shell fish and oysters.
- 901. Factories to keep books and inspection.
- 902. License to pen and export oysters.
- 903. Migratory fish.
- 904. Criminal Code construed in relation to oysters.

All beds of
rivers State
property.

1906. XXV.
88: 1908.
XXV. 1157:
1910. XXVI.
688: 1907.
XXV, 607.

Section 880. From and after May 1, 1906, all the beds of the bays, rivers, creeks and shores of the sea within the jurisdiction of this State, and not conveyed by special grant or compact according to law, shall continue and remain the property of the State of South Carolina, and may be used in common by all the people of the State for the purpose of fishing and fowling, and taking and catching oysters and other shellfish, terrapin, shad, sturgeon and other fish, subject to the provisions of this Article, and any future law that may be passed by the General Assembly; and no grant shall hereafter be issued by the Sinking Fund Commission to pass any estate, title or interest of the State in or to any

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oyster bed, rock or shoal, whether the said bed, rock shall be bare or not.

No grant to be made of oyster bed.

81. It shall be the duty of the Governor to appoint persons, who shall constitute and be known as the Board of Fisheries of South Carolina, whose term of office shall be two years. One of these appointees, who shall be the Chairman, shall be versed in and have practical knowledge of the oyster and fish industry and shall be from the interior section of the State. The Governor shall appoint two members of this Board from different sections of the State: *Provided*, That no member of the Board shall be engaged (for hire or profit) in the shell-fish, terrapin or fish industry, either directly or indirectly.

Governor to appoint Board of Fisheries.

Violations of the provisions of this article and further provisions in connection therewith, see Criminal Code, Sections 766-784.

82. All members of said Board shall file the oath of office with the Secretary of State, who shall thereupon issue to each of them a commission designating each as a member of the Board of Fisheries of South Carolina, and designating the Chairman; each commission to have the signature of the Governor, to be countersigned by the Secretary of State, and bear the seal of the State. The Chairman of the said Board shall enter into bond in the penalty of five thousand dollars (\$5,000), with sufficient surety, to be approved by the Governor, payable and conditioned as provided by Section 648.

Oath of office.

Bond.

83. It shall be the duty of said Board to establish one or more offices in some convenient place in the tide-water of the State, and stated meetings shall be held by the Board as often as may seem advisable and necessary, subject to the restriction imposed in Section 886.

To establish an office.

84. It shall be the duty of said Board to see that all laws relating to oystering, planting and cultivation of oysters and clams in the waters of the State, and all laws relating to the catching and propagating of migratory fish, and terrapin in the waters of this State, are faithfully executed; that all persons engaged in the oyster and fish industry are fully protected in all of their respective rights. The Board of Fisheries shall have authority, if it be practicable, to use a part of their appropriation, not to exceed

Duties of the Board.

CIVIL CODE

ndred dollars (\$100.00) for the purpose
pon suitable bottoms, in the public wa
the results shall be carefully observed
, and any profits which may be der
beds shall be paid into the State treas
e account of the Board of Fisheries.
Board shall have authority to adopt m
or policing the waters of the State.
ognizance of all communications mad
inspectors or other officials relating to vi
of the laws of the State affecting
such action as may be necessary to
ler existing laws and to do any and
eir judgment, may seem right and pro
er and fish industries and all persons
engaged therein. They may employ s
from time to time be necessary.
salary of the Chairman of said Board
ighteen hundred dollars (\$1,800.00)
be required to devote his whole time
uties of said office. The remaining m
shall receive a per diem of four doll
al expenses; that they shall not rece
more than thirty (30) days in any
ior shall have power to remove any or
ct of duty, misfeasance or malfeasance
ny vacancy or vacancies which may oc
Board.
all be the duty of the Chairman of s
t all meetings of the Board, to call spec
ppear proper and advisable, and to ma
ervision of the general industries and
der the care of this Board; to keep
rds of the Board, and to make all repo
e Board to the Comptroller-General.
ecords or accounts in the office or offi
ll be open at all times to the examinati
id Comptroller-General or their accredi
be the duty of this Board to make
he Governor, and to report to the Gene
er that body convenes in regular sessio

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shall be plainly set forth the amounts of revenue from the several industries embraced in their super- the expenses incurred in the enforcement of this Sections 767 to 784, both inclusive, of the Crim- and they shall recommend such legislation as, in ment and experience, may be deemed advisable in of those industries and the revenues of the State ed therefrom.

To meet the necessary expenses of this Board, ^{Annual ap- propriation.} be appropriated annually the sum of seven thou- hundred dollars (\$7,200.00), or so much thereof necessary, which shall include the salaries as pro- is Article.

There shall be four (4) inspectors to carry into ^{Inspectors to be appoint- ed by Board of Fisheries.} enforce the provisions of this law. The inspectors appointed by the Board of Fisheries, and shall have nts for at least two years in the Counties within ries of which their duties are to be performed, receive salaries as follows: The inspector of the ion shall receive a salary not exceeding seventy- ollars per month, and the inspector of the other ^{Compensa- tion.} ons shall each receive a salary not exceeding sixty rs per month, in the discretion of the Board of

Said Board shall have power to remove any t any time, for cause, and the inspector shall not any longer time than he serves. Every inspector ^{Bond of in- spectors.} re the Clerk of the County within the jurisdiction e resides, take the oaths and give bond prescribed 648. The bond shall be in the penalty of two (2,000) dollars. The Clerk of the Court shall copy of the bond to the Comptroller-General rty (30) days after its execution.

al Code, Section 17.

It shall be the duty of the Board of Fisheries ^{Duties of the Board.} the laws for the collection of taxes, fines, rents revenues due the State from said industries are nforced by the inspectors, and to require of each during the first ten (10) days of every month a report of collections due during the preceding m any source under his supervision, giving, in

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rm and in detail, from whom said collections
as well as the proper classification of said
er from taxes, fines, rents or other sources,
y said inspector to the County Treasurer
which such collections become due, and
e County Auditor of the said County, a
uch information in regard thereto as may
e Treasurer in the proper discharge of his d
the duty of said inspector to forward t
-General, not later than the 20th day of
to the Chairman of the Board of Fisheries
he 6th day of each month, a duplicate of
failure to furnish such report shall, at the
he Board, subject such delinquent inspect
of removal from office, or to a fine of no
-five dollars (\$25) nor more than fifty do

The County Treasurer shall collect all
l sums due as rent upon grounds leased for
of fish, terrapin and shell-fish imposed by
when the lessee remains in default in the
annual rent for such planting ground, or
i, for sixty (60) days after the same beco
vable. The Treasurer shall also have power
the lessee's expense) a sufficient quantity
the leased grounds to satisfy the fines, taxes
the planting grounds, and shall proceed to
her at public auction or private sale, as he s
and if there be any surplus arising from s
he payment of all necessary expenses incurred
up and selling of said oysters, and including
dollar (\$1.00) to the said Treasurer, and
id rents, he shall pay the same to the lessee;
person is in possession and use of any plant
so leased according to law, the same remedy
to said Treasurer for the collection at once
xes and all sums due or would be due had
so occupied been rented.

The Comptroller-General shall provide
necessary blank forms for the use of the Bo

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State, not naturally producing oysters or clams in sufficient quantity to warrant catching them for the market, or where, by reason of the small quantity of oysters thereon, shall be, in the judgment of the Board of Fisheries, be considered natural oyster beds within the meaning of the law, to be assigned to the Board of Fisheries and have its location ascertained and designated and surveyed, and the same shall be marked with suitable stakes, smooth and free from snags and stones, or by other metes and bounds, courses and distances, having their places of beginning and ending designated by permanent objects on the shore agreed upon by the applicant and the Inspector, and he shall pay the Inspector for his services a fee of one dollar (\$1), and he shall also pay to the Comptroller and Treasurer rent for the land assigned to him, at the rate of ten cents (10c.) per acre for the first five (5) years, and after five years, at the rate of twenty-five cents (25c.) per acre for each and every year of his rental, to be payable on the first day of September of each year; and so long as he continues to pay such rent he shall have exclusive right to occupy such land for a period of twenty (20) years, subject to such rights, if any, as any other person or persons may have previously acquired, and shall have a prior right to renew such lease at such rates per acre as in the judgment of the Board may seem just and proper. The first year's rent shall be a pro rata of the yearly rate, based on the time elapsed from execution of the lease to the first day of September next following. In case of two or more applicants for the same bottom, preference shall be given to the owner of the owners of adjacent lands. In case no such owner or owners

Rent of lands. apply, then preference shall be given in order of application. The lessee shall be required to deposit within two (2) years shells or oysters to the amount of not less than ten (10) more than one thousand (1,000) bushels per acre for the entire area leased, the amount to be fixed by the Board. The lessee shall be required to prove compliance to the satisfaction of the Board of Fisheries, and in default of such proof the lease shall be annulled. If any portion of said waterfronts, beds, bottoms or marshes be occupied with oysters or clams actually planted thereon or held by any person under proper assignment, the occupant shall have the prior right against all others to have the land so occupied by him.

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ed to him by the Inspector: *Provided*, The said occupant shall have the land so assigned to him ascertained and located and surveyed and rent paid within thirty (30) days from the time the Inspector is called upon to locate the

violation of this and two following sections, see Criminal Code, Section

897. Not over five hundred (500) acres shall be ^{Leases of} leased to any one individual or corporation. Leases shall be made only for reasonably contiguous and compact areas, subject to the discretion of the Board of Fisheries. All applications for leases shall be made to the said Board in writing and advertised in one or more papers, at the cost of the applicant, and published for three (3) consecutive weeks in the County in which the lands applied for are located. The Board of Fisheries is hereby authorized to lease any of the marsh lands of the State, for the purpose of the erection of oyster canneries and depository for shells, to those who establish, intend to establish, oyster canneries; these leases to be made in the discretion of the Board of Fisheries, and for terms not exceeding twenty (20) years, with privilege of renewal: *Provided*, Said marsh land, so leased, shall be used for purposes leased within two years from date of lease.

Criminal Code, Section 769.

898. Any person, firm or corporation who is now occupying oyster planting ground, or is desirous of occupying any oyster planting ground, shall notify the inspector of his desire to continue to occupy, or his desire to occupy, new oyster planting ground, and the inspector shall employ the surveyor employed by the Board, who shall survey said ground and make a plat of the same; the surveyor shall receive for surveying and making plat, fifty cents (50c.) ^{Duty of} per acre or portion thereof, for five (5) acres or less, twenty-five cents (25c.) ^{those occupy-} for more than five (5) acres and up to thirty (30) acres, fifteen cents (15c.) ^{ing oyster} per acre for each acre ^{beds.} more than thirty (30) acres and up to fifty (50) acres, and ten cents (10c.) ^{Survey.} per acre for all over fifty (50) acres, the cost of surveying and plat to be paid by the renter; and the surveyor shall have the same privileges as to collection of fees as the Treasurer has to his fees; this sur-

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vey and plat to remain good so long as the rent is annually paid and the ground is occupied by the party paying for the survey and plat under the conditions of Section 896. The said survey and plat shall indicate the metes and bounds, courses and distances, having their beginning and ending by fixed and permanent objects on the shore as accurately as may be, and the same, as soon as possible after completion, shall be filed by the inspector in the office of the Clerk of Court of his County, there to be forthwith recorded in a well-bound and substantial book and indexed in the name of the assignee; and thereupon at once a written memorandum thereof shall be filed with the Clerk of the Court. The Clerk of Court shall receive the said survey and plat and record same and shall be paid by the assignee for his services the same fees he now receives for recording deeds and plats. After the same is recorded the assignee is entitled to withdraw the original from the Clerk's office. Each County shall furnish the Clerk with necessary books for recording same. The fees due the Clerk of Court for the recordation and filing of said surveys and plats shall be collected as other fees due the Clerk. The inspector shall furnish copies of said surveys, plats and memoranda to the Board of Fisheries.

See Criminal Code, Section 789.

Oysters, etc.,
to be deemed
goods and
chattels.

Sec. 899. Oysters or clams imbedded or planted, oysters or clams deposited by any person making up a cargo for market, and shells planted for the formation of oyster or clam beds, shall be deemed goods and chattels of which larceny may be committed, although there be no interval between the severing and the taking away.

Tax upon all
shell fish and
shad.

Sec. 900. For the support of the Board of Fisheries and to defray the expenses of this Article, for the improvement of the natural beds, for the protection of the private beds, an impost tax shall be placed upon all oysters, clams, terrapin, and shad caught or taken for the purpose of being put upon the market, whether from the natural or planted beds, marshes, bottoms or waters of the State. The tax shall be at the rate of one cent (1c.) upon each sixty (60) ounces of canned oysters; two cents upon each gallon of raw shucked oysters gathered in this State; ten cents upon each bushel of clams in the shell; five cents (5c.) upon each terrapin, and

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and one half cents ($3\frac{1}{2}$ c.) upon each shad: *Provided*,
shad caught in unnavigable streams and sold on local shad.
shall be exempt from said tax. Each package con-
taining oysters canned in this State, or raw shucked oysters
packed in this State, clams gathered in this State, or ter-
rapien shad offered for sale or transportation, shall be
marked by the manufacturer with the number of ounces or
pounds of oysters, and the number of shad or terrapin, and
the number of bushels of clams contained therein, and the
weight of ounces and fractions of ounces of oysters contained
therein shall be plainly stamped in the metal cap of each
package of oysters canned within this State after the first day of
January, A. D. 1909. It shall be the duty of the County Treas-
urer to furnish said stamps, in any and such denominations
which he may decide will best meet the requirements of the
producers or dealers, and to sell said stamps direct to the per-
son purchasing same. The County Treasurer of each County in
which any impost tax stamps are sold, or taxes collected
under this Article, shall keep a book in which shall be
recorded all impost tax stamps received by him, showing the
denominations, quantities and serial numbers of all
stamps received, and each sale of such stamps made by him,
the name of purchaser, date of each purchase, kind, denom-
ination and quantity sold; and shall, within the first five
days of each month, forward to the Chairman of the Board
of Fisheries a statement showing the quantities of each kind
and denomination sold, the dates of sales, and the names of
purchasers, and as remuneration of the services required
of him by the provisions of this Chapter, the County
Treasurers of Beaufort, Colleton, Charleston, Georgetown
and Horry Counties shall each be paid by the State Treas-
urer upon the warrant of the Comptroller-General, each
month from the moneys collected and paid into the State
Treasury by him under the provisions of this Chapter, three
per cent. (3 per cent.) of the amount so collected by him
during that year: *Provided, however*, That any County or
license paid by any oyster canner or exporter of terra-
pien shad, for any period after May 1, 1908, shall be
returned to whom the license may
be paid by the Treasurers of each County in
which the stamps are sold shall, in January,

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April, July and October of each year, and on or before the 5th day of each of the said months, forward to the Chairman of the Board of Fisheries a statement of all such stamps in his hands, showing the kinds, denominations, quantities and serial numbers of the same.

See Criminal Code, Section 775.

Canning factories to keep books to be open for inspection.

Sec. 901. All managers, persons in charge of canning factories, shall be required, under a penalty of not less than one hundred dollars (\$100.00) to keep a book in which shall be entered the name of each person from whom they shall purchase oysters, together with the date of purchase and quantity purchased, the name, color and approximate tonnage of the boat in which the oysters are brought to the factory, the quantity of oysters canned each day, and the quantity of canned oysters packed for shipment each day, the date and the amount of each shipment of canned oysters, together with a copy of the bill of lading of said shipment; and to make an itemized written report to the Board of Fisheries not later than the fourth (4) day of each month; said book to be open at all times to the inspection by the Board of Fisheries or its agents, or the Comptroller-General or his agents; and shall, within the first five days after the first day of May, in each year, make a report to the Board of Fisheries, the number of canned oysters, stamps of each kind and denomination on hand on the first day of May. All who catch or buy terrapin or clams, for the purpose of sale or export, shall be required to keep a book in which shall be entered the date of each purchase of terrapin, together with the number of terrapin, and the true name and address of the person or persons from whom the terrapin are purchased, the date of each shipment, together with the number shipped, and the way bill covering each shipment, and to make itemized written reports to the Board not later than the fourth (4) day of each month; said book to be open at all times to the inspection of the Board of Fisheries or its agents, and the Comptroller-General or his agents. All persons engaged in the shipping or sale of shad, raw shucked oysters or clams, shall be required to keep a book in which shall be entered the date and the quantity of each shipment or sale, together

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with a certified copy of the bill of lading covering said shipment, and to make itemized written reports to the Board not later than the fourth (4) day of each month; said book to be open at all times for the inspection of the Board of Fisheries or its agents, and the Comptroller-General or his agents.

All common carriers, and their agents, are hereby required to keep a full and correct record of each shipment of clams, oysters, terrapin or shad; and said records shall be open at all times to the inspection of the persons charged with the enforcement of this Article.

See Criminal Code, Section 777.

Sec. 902. Each and every person, firm or corporation, engaged in the penning or exporting from this State of terrapin, shall apply to the Board of Fisheries for a license for the same; and the said Board, upon the payment of twenty-five dollars (\$25.00) by the said person or persons, firm or corporation, shall issue to such person or persons, firm or corporation, a license to pen in the State and export from the State terrapin for one year, subject, however, to the provisions of Section 900 and Section 775 of the Criminal Code. All persons, firms or corporations, other than common carriers, who, for themselves or others, hold terrapin in confinement, for the purpose of sale or delivery, shall be deemed and considered as being engaged in the business of penning terrapin, within the meaning of this Article; and whenever any one person, firm or corporation, shall maintain a pen in more than one place, the payment of a separate license fee of twenty-five dollars, for each pen where such business is conducted, is hereby required: *Provided*, That nothing herein contained shall be construed so as to require any such person or persons, firm or corporation, to take out any license for any employee or employees engaged by such person or persons, firm or corporation, respectively, from catching or gathering terrapin: *And Provided, further*, That the term "pen," as used in this Section, shall not be construed to include the temporary collection for transportation of terrapin to the pen or pens required by this Section to be licensed, unless the Board of Fisheries shall decide that said temporary pens are used as a shipping or selling point

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to avoid the establishment and maintenance of a permanent pen or the payment of the license fees required by law; and all terrapin penned in this State shall be subject to a tax of five (5) cents each, whether the same shall have been gathered, caught or bought within this State or not.

Closed season for migratory fish.

Sec. 903. That it shall be the duty of the Commission herein provided for to enforce all existing laws in regard and relating to the open and closed seasons in reference to migratory fish.

Sec. 904. Sections 766 to 784 of the Criminal Code, both inclusive, shall be construed in connection with, and as a part of, this Article.

ARTICLE XVI.

PUBLIC SERVICE COMMISSION.

Sec.

905. Public Service Commission created.

906. Powers as to rates, etc.

Sec.

907. Bond; compensation.

908. Term of office.

Public Service Commission created; powers.

1910, XXVI, 564.

Section 905. There shall be a Public Service Commission of three reputable and competent citizens of this State, to be appointed by the Governor, by and with the consent of the Senate, who shall be authorized to fix and establish in all cities of this State, now or hereafter incorporated under any general or special law of this State, maximum rates and charges for the supply of water, gas or electricity furnished by any person, firm or corporation to such city and the inhabitants thereof, such rates to be reasonable and just.

May summons certain public utility corporations for hearing on rates.

Sec. 906. Upon complaint in writing of twenty or more citizens to the mayor or council of any such city, that any person, firm or corporation is charging an unjust or unreasonable rate for water, gas or electricity, furnished by the same, the said city, mayor or council may request the Public Service Commission to summon such person, the members of such firm or the officers of such corporation to appear before them, with their books relating to such matters, when such examination shall be made as may be necessary to determine whether or not the said rates are unjust or unreasonable; and if upon such examination the said

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Service Commission shall determine that the said rates are unreasonable or unjust, it shall be their duty to fix rates to be paid for water, gas or electricity as they may be just and reasonable: *Provided*, That in case the Public Service Commission shall fix unjust and unreasonable rates the same may be reviewed and determined by the Circuit Court of the County in which such city is located.

907. The members of the said Public Service Commission shall give a bond of one thousand dollars for the faithful performance of their duty, and shall each receive a salary of ten dollars a day while actually employed and necessary expenses, the same to be paid by the firm, person or corporation against whom the complaint is made if the charges are found to be unjust or excessive, but if otherwise then such expense shall be paid by the city authorities wherein the complaint is made.

908. That the term of office of the members of said Public Service Commission shall be for two, four and six years, respectively, to be determined by lot at their first meeting, and every two years thereafter the Governor shall appoint one member, to serve for a term of six years and his successor is appointed and qualified, any of said members to be removed at the pleasure of the Governor: *Provided*, That the provisions of this Article shall not apply to the cities of Charleston, Marion, Spartanburg, Sumter, Union, or the town of Conway.

Violation of this article, see Criminal Code, Section 266.

ARTICLE XVII.

BOARD FOR UNIFORMITY OF LEGISLATION.

Board created.
Duty of Board.

Sec.

911. To keep a record; annual report.

Section 909. The Governor shall appoint three suitable persons, and they and their successors are hereby constituted a Board of Commissioners for the Promotion of Uniformity of Legislation in the United States." Any vacancy in

Board for promotion of uniformity of legislation established.

1909, XXVI
127.

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said Board by resignation, death or (however) otherwise arising, shall be filled by the appointment by the Governor of a suitable person.

Duty of Board.

Sec. 910. It shall be the duty of said Board to examine the subjects of insolvency, the descent and distribution of property, the execution and probate of wills and other subjects upon which uniformity of legislation in the various States and Territories of the Union is desirable, but which are outside the jurisdiction of the Congress of the United States; to confer upon these matters with the commissioners appointed by other States and Territories for the same purpose; to consider and draft uniform laws to be submitted for approval and adoption by the several States; and generally to devise and recommend such other or further course of action as shall accomplish the purposes of this Article.

To keep a record; annual report.

Sec. 911. The said Board of Commissioners shall keep a record of all its transactions, and shall at each regular session of the Legislature in each year, and may at any other time, make a report of its doings and of its recommendations to the General Assembly.

ARTICLE XVIII.

BOARD FOR DISTRIBUTION OF DEAD BODIES FOR SCIENTIFIC PURPOSES.

Sec.

912. Board created to distribute dead bodies for scientific purposes.

913. Board to keep records.

Sec.

914. Certain dead bodies to be turned over to Board.

915. How distributed.

916. How bodies transported.

917. Bond to be given.

Board created to distribute dead bodies for scientific purposes.

1909, XXVI, 166.

Section 912. The professors of anatomy, the professors of surgery, and the demonstrators of anatomy of the Medical College of the State of South Carolina, and of several colleges and schools of this State, authorized by law to teach medical science and issue diplomas, shall constitute a board for the distribution and delivery of dead human bodies and for the purpose provided in this Article. The said board shall have power to make rules and regulations for

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vernment and the proper discharge of their func-

3. They shall keep a record of their proceedings particularly of all bodies received and distributed, which shall be open at all times to the inspection of each of the board and the Attorney-General and the of each circuit in the State. They shall keep records.

14. All officers, agents and servants of every city, state, and of every almhouse, prison, morgue, hospital, or other public institution in such cities having or control of any dead human body which is required to be buried at the public expense, and every officer or other person having charge or control of the body of any person from whom the sentence of death for crime has been executed under the law, shall notify the said board, or such persons as may, from time to time, be designated by the board or their duly authorized officer or agent, when and as soon as any such body comes to his or her or their charge, charge or control, and shall, without fee or reward, deliver such body, and permit the said board and its agents, and such physicians and surgeons as may, from time to time, be designated by the board and shall have given notice and hereafter required to take and remove any such body to be used for the advancement of medical science, but no notice need be given nor shall any such body be delivered if any person claiming to be and satisfying the authorities in charge of said body that he is of kin or related by marriage to the deceased, shall claim the body for burial and pay the expenses thereof; nor shall the notice be given if the body be delivered if the deceased was a traveler who died suddenly. Certain dead bodies to be turned over to the Board.

15. The bodies received shall be distributed by the board to and among Medical College of the State of South Carolina, colleges and schools aforesaid, and such physicians and surgeons as the board may designate. The colleges and schools shall first be supplied with bodies needed for lectures and demonstration. The remaining bodies shall be distributed equitably among the physicians and surgeons aforesaid: *Provided*, That in such equitable distribution, the physicians and surgeons as aforesaid of the city where the distribution takes place shall have prior right to How distributed.

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receive the body. The board, instead of by themselves or through their agents receiving and delivering said bodies may, from time to time, either directly or by their officers or agents, designate physicians and surgeons to receive the same, and the number each shall receive. For the purpose of the distribution contemplated by this Section, the bodies shall be held, subject to the order of the board or their authorized agent, in the city where death occurs, not less than twenty-four hours.

How bodies
transported.

Sec. 916. The said board may employ a carrier or carriers for conveyance of the said bodies, which shall be well enclosed in a suitable case, and carefully deposited, free from public observation. Every such carrier shall obtain a receipt by name, or if the person be unknown, by a description, for each body delivered by him, and deposit such receipt with the secretary of the board. After the said bodies shall have been sufficiently used for the purposes of instruction, they shall be decently interred by the university, college, physicians, and surgeons, as the case may be, receiving them.

Bond to be
given.

Sec. 917. Neither the colleges, schools, physicians or surgeons shall be allowed to receive any such body until a bond shall have been given to the State by such physician or surgeon, or by or in behalf of the college or said school, to be approved by the Judge of the Circuit Court, County Clerk, or Circuit Solicitor, and filed in the office of the Clerk of said Court, in the penalty of one thousand dollars, with condition that all such bodies which the said physician or surgeon or the college or school, as the case may be, shall receive thereafter, shall be used only for the promotion of medical science within this State. If any person sell or buy any such body, or in any way traffic in the same, or transmit or convey, or procure in order to be transmitted or conveyed, any such body to any place outside of this State, he shall be fined not exceeding two hundred dollars, or, in the discretion of the Court, be confined in jail not exceeding one year: *Provided*, That the board may, in its discretion, on the application of any person empower such person to import into this State and traffic in such anatomical material and pathological specimens as the board may designate.

For violation of this article, see Criminal Code, Section 395.

CHAPTER XX.

County Officers and Their Compensation.

1. The County Supervisor and County Board of Commissioners.
2. The Sheriff.
3. The Coroner.
4. The Clerk of Circuit Court.
5. The Register of Mesne Conveyances.
6. The Judge of Probate.
7. The Master.
8. Magistrates.
9. Constables.
10. Salaries.

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COUNTY SUPERVISOR AND COUNTY BOARD OF COMMISSIONERS.

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- 946. Hire of convicts to be paid into County Treasury.
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- 948. Fees for dieting prisoners.
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- 959. Report as to Poor House.
- 960. Seal of County.
- 961. Fees to be paid by County.
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- 963. Constables' salaries; deductions from.
- 964. Sheriffs, etc., to execute orders of Board.
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- 966. Estimate of expenses to be furnished Comptroller-General.
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- 969. County funds raised by taxation not subject to levy.
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- 977. Comptroller-General to prescribe forms and system of bookkeeping.
- 978. County officers to be furnished certain necessaries.
- 979. Rooms for Courts to be furnished.
- 980. Extra allowance to salaried officers forbidden.
- 981. May change name of Townships; notice.
- 982. May borrow money in certain Counties; Obligation to be given for loan.
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- 992. Duty as to road duty.
- 993. Road fund.
- 994. Per diem of Commissioners.
- 995. Claims; how paid.

BERKELEY COUNTY.

- 996. Parish Commissioners for Berkeley County.
- 997. Organization of Board.
- 998. County Board of Commissioners.
- 999. Duties of County Supervisor.
- 1000. Parish Boards of Assessors abolished.
- 1001. Board of Equalization abolished.
- 1002. Compensation of certain officers in Berkeley County.

DORCHESTER COUNTY.

- 1003. Duties and powers of County Supervisor in Dorchester County.
- 1004. Further duties.
- 1005. Township Commissioners.
- 1006. County Board of Commissioners.
- 1007. Organization thereof.
- 1008. May borrow money.
- 1009. Commutation tax; duty as to.
- 1010. Further duties of Township Commissioners.

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nditures; claims.
 ship road fund to be
 t separate.
 ty Commissioner abol-
 ed.

GREENVILLE COUNTY.

d of County Commission-
 , for Greenville County.

anization.
 es.
 pensation.
 n of office.
 rvisor to keep "File Book
 Claims."
 book called "Classifica-
 n of Claims Allowed."
 "Bills Payable Book."
 "Bond Book."
 ty Treasurer to keep
 ly cash receipts.
 disbursements for Coun-
 expenses.
 "disbursement of school
 nds."

"Monthly Cash Book."
 surer to make monthly
 port.
 keep Bills Payable Book.
 make monthly report of
 hool disbursements.
 receipt book.
 rics to be made in ink.
 rrior not to spend funds
 r other purposes than that
 r which appropriated.
 rrant to show fund on
 hich drawn.
 en funds exhausted pay-
 ents to be stopped.
 position of certain income.
 ns from State Sinking
 und.
 ty Auditors to examine
 ooks.
 ual statement.
 e and License Book.

HAMPTON COUNTY.

ties of Supervisor and
 ounty Commissioners.
 ary legal adviser.
 rk of Board of County
 Commissioners.
 ounty physicians.
 rk on bridges not to be let
 nt by contract.

Sec.

1045. Monthly estimates to be made.
1046. Sworn statement of expenditures to be filed.
1047. Commissioners responsible for extravagance or waste.
1048. Throwing sand in road prohibited.

ORANGEBURG COUNTY.

1049. Duties and powers of County Supervisor.
1050. Further duties.
1051. Township Commissioners.
1052. Meetings County Board of Commissioners.
1053. Duties of Township Commissioners.
1054. Township road fund.
1055. Further duties Township Commissioners.
1056. Unlawful to approve claim in excess of fund.

SPARTANBURG AND UNION COUNTIES.

1057. County government.
1058. Election and duties of Supervisor.
1059. Duties in Spartanburg County.
1060. Duties County Commissioners Union County.
1061. Township Commissioners.
1062. Powers of Board.
1063. Per diem of Commissioners.
1064. Duties of Commissioners.
1065. Duty as to road duty.
1066. Township road fund.
1067. Duty of Commissioners in Spartanburg County
1068. Township Commissioners for Spartanburg County.
1069. Powers of Commissioners in Union County.
1070. Township Commissioners must be Notaries Public.
1071. Meetings of Board in Union County.
1072. When Supervisor's office shall be open.

WILLIAMSBURG COUNTY.

1073. County Supervisor abolished.
1074. A County Commissioner appointed.
1075. Oath, bond and compensation.
1076. Duties and powers.
1077. Auditing Board.

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OLD COUNTY.	Sac.
divided into road dis-	1081. Clerk.
District Commis-	1082. Claims.
s.	1083. Notice of claims.
and oath of office; com-	1084. Meetings.
mon.	1085. Board not to be interest-
and duties of County	1086. Duties of Commissioners.
Commissioners.	1087. Report of expenditures.

18. There shall be an election held for supervisor in each of the several Counties of which the term of office of the County Supervisor shall be the first Tuesday in January next after the last general election for State officers, whose term shall be four years, and until his successor is elected and qualified: *Provided*, That the term of the County Supervisor shall be two years in Anderson, Barnwell, Bamberg, Beaufort, Berkeley, Chester, Darlington, Dillon, Dorchester, Lancaster, Marion, Richland, Spartanburg, South Carolina, and York: *Provided, further*, That this Section shall apply to the Counties of Aiken, Fairfield, Georgetown, and Williamsburg.

on beginning of term, see Section 665.

The County Supervisor so elected shall, before entering upon the duties of his office, execute a bond for the County, with three or more sufficient sureties, to guarantee the performance of his duties, in the penal sum of one thousand dollars, except in Pickens County, where the bond shall be in the sum of two thousand dollars, and in Orangeburg County, where his bond shall be three thousand dollars. Said bond to be approved in the same manner as provided for bonds of County Auditors and County Treasurers, except in Orangeburg County, where said bond shall be approved by the County Auditor and County Treasurer, except in Hampton County, where he shall execute a bond with the Clerk of the Court a bond in the sum of two thousand dollars, for the use of the County in some good and lawful purpose, duly executed, or a bond duly executed with sufficient sureties, to be approved by the Clerk of the Court.

The County Supervisor shall have general supervision over all public highways, roads, bridges and

and over the paupers, and in all matters relating to and disbursements of public funds for County purposes in their respective Counties, and in any other case may be necessary for the internal improvement and concerns of their respective Counties; said Supervisor shall have power and authority to administer oaths to any person in reference to matters appertaining to his office.

21. There shall be in each of the Counties of this State except Aiken, Beaufort, Berkeley, Charleston, Chester, Dorchester, Fairfield, Greenville, Kershaw, Laurens, Orangeburg, Spartanburg, Union and Williamsburg, a Board of Commissioners, which shall be composed of the County Supervisor, who shall be elected and hold office as now provided by law, and two Commissioners who shall be appointed by the Governor, upon the recommendation of the members of the General Assembly from the several Counties, or a majority of them, and whose term of office shall be co-terminal with that of the Supervisor with whom they are appointed to serve, and until their successors are appointed and qualified. Said Commissioners shall be commissioned by the Secretary of State as other State officers, but without charge for their commissions: *Provided*, That in the Counties of Colleton, Lexington, Richland, and Oconee the said two Commissioners are to be appointed by the qualified electors thereof at each general election. They shall hold office for two years, and until their successors are elected and qualified: *Provided, further*, That in Richland County one Commissioner shall be elected in each township by the qualified electors thereof at the next general election and every two years thereafter, and they shall hold office for two years from election, and until their successors shall be elected and qualified: *Provided, further*, That in the County of Darlington the County Board of Commissioners shall be composed of the County Supervisor, who shall be elected and hold office as is now provided by law, and four Commissioners who shall be appointed by the Governor upon the recommendation of a majority of the members of the General Assembly, and whose term of office shall be co-terminal with that of the Supervisor with whom they are appointed to serve, and until their successors are appointed and qualified. Said Commissioners to be commis-

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General Jurisdiction of Supervisor.

Civ. '02, § 756.

May administer oaths.

County Board of Commissioners; how composed.

Civ. '02, §

756; Aiken,

1908, XXV,

1049; Bam-

berg, 1908,

XXVI, 27;

Barnwell,

1908, XXIV,

970; Berke-

ley, 1908,

XXV, 1049;

Chester, 1907,

XXV, 644;

Dorchester,

1910, XXVI,

690; Fair-

field, 1908,

XXV, 1203;

Greenville,

1910, XXVI,

685; Hamp-

ton, 1908,

XXV, 1176;

Orangeburg,

1908, XXV,

1181; Spar-

tanburg, 1908,

XXVI, 153;

Union, 1908,

XXV, 1184;

Williamsburg,

1908, XXV,

1191; 1906,

XXIV, 769;

1907, XXV,

643.

1909, XXVI,

52.

CIVIL CODE

COUNTY.	Sac.
ded into road dis-	1081. Clerk.
District Commis-	1082. Claims
ath of office; com-	1083. Notice of claims.
	1084. Meetings.
duties of County	1085. Board not to be intere-
ners.	instructed
	1086. Duties of Commissioners.
	1087. Report of expenditures.

There shall be an election held for supervisor in each of the several Counties on the first Tuesday in January next after the general election for State officers, whose term of office of the County Supervisor shall be two years in Anderson, Barnwell, Bamberg, Beaufort, Berkeley, Chester, Darlington, Dillon, Dorchester, Marion, Richland, Spartanburg, South Carolina, and York: *Provided, further,* That this Section shall not apply to the Counties of Aiken, Fairfield, Georgetown, and Williamsburg.

beginning of term, see Section 685.

The County Supervisor so elected shall, before entering upon the duties of his office, execute a bond for the faithful performance of his duties, in the penal sum of two thousand dollars, except in Pickens County, where the bond shall be in the sum of two thousand dollars, and in the County of Williamsburg, where his bond shall be three thousand dollars. The bond to be approved in the same manner as provided for bonds of County Auditors and Commissioners, except in Orangeburg County, where said bond shall be approved by the County Auditor and County Treasurer, except in Hampton County, where he shall be approved by the Court a bond in the sum of two thousand dollars for the use of the County in some good and lawful way executed, or a bond duly executed with sufficient sureties, to be approved by the Clerk of the Court.

The County Supervisor shall have general supervision over all public highways, roads, bridges

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Four Commissioners for Sumter County.

1908, XXV, 1041.

Rev. 1892, XXI, 483.

Chairmen of County Boards

Civ. '02, 1758.

Special provisions as to County Board of Commissioners in certain Counties.

1908, XXIII, 24.

sioned by the Secretary of State as other County officers without charge for their commissions: *Provided, further*, That in the Counties of Barnwell and Chester, they shall hold monthly meetings at the court house, on the first Monday in each month in Chester County, and on the Tuesday following the first Monday in each month, and any one of the said Commissioners, together with the Supervisor, shall constitute a quorum: *Provided, further*, That in the County of Sumter there shall be four Commissioners, to be selected from different portions of the County.

Sec. 922. In the Counties of Beaufort, Charleston, Chatham, Lee and Kershaw the County Board of Commissioners shall be composed of the County Supervisor and the chairmen of the Township Boards of Commissioners in the several Townships appointed by the Governor.

Carolina Grocery Co. v. Burnet, 61 S. C., 205; 39 S. E., 381.

See side note to Section 921.

Sec. 923. The County Supervisor shall be the chairman of the County Board of Commissioners.

Sec. 924. In Colleton County, one of said Commissioners shall be present, and act with the County Supervisor, or two Commissioners may act together; and in Oconee County one of said Commissioners shall be present, and may act with the County Supervisor in awarding all contracts for the repair of highways and bridges, where the contract price exceeds ten dollars, and shall likewise be present when such repairs are to be inspected and received. In the County of Colleton, in addition to the duties devolved by law upon such Boards, said Board of Commissioners for said County shall have joint control of the County chaingang and Poor House farm, and shall prepare and keep a record of the roads, with the number of miles of each highway, and the number of bridges over ten feet in length on each of said roads; and shall also furnish a certified statement of the receipts and expenditures of all the County officers, and shall transmit the same to the members of the General Assembly not later than ten days after the opening of the session thereof; and in the Counties of Dorchester and Marlboro, the Commissioners shall, on or before the second Monday of each and every month, file with the Clerk of the Court of Common Pleas a full and itemized statement of

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lieu and stead of the Board of Township Commissioners as provided for in this Section, and shall have all the powers, rights and privileges and be charged with all the duties, obligations and responsibilities as are now provided for by law for the Board of Township Commissioners provided for in this Section, except as same may be amended by said Act forming said Township government or any amendment thereof.

Meeting of
organisation.Civ. '02 §
765.Quarterly
meetings.

Quorum.

Extra meet-
ings.Member of
State Board
of Equaliza-
tion.Accounts to
be presented.Civ. '02 §
767.Approval and
payment.Claims
against Cher-
okee County;
how paid.1908, XXV,
1209.

Sec. 927. Immediately after the appointment of the several Boards of Township Commissioners for the Counties mentioned in the last preceding Section and the election and qualification of the County Supervisor, or as soon thereafter as may be practicable, the said Supervisor shall call a meeting of said Board for the purpose of organization. And the County Board of Commissioners shall meet thereafter on the first Monday in January, April, July and October of each year at the County Court House, for the transaction of business, and a majority of said Board shall constitute a quorum: *Provided*, That the chairman of said Board may call an extra meeting at any time, and shall be required to do so upon the written request of three members of the Board. At the first meeting of said Board they shall elect one of their number who shall be a member of the State Board of Equalization and who shall perform all the functions of said office as now provided by law.

Sec. 928. All accounts, claims and demands of whatever nature existing against the County for opening, constructing, maintaining and operating any public highway, road, bridge or ferry shall be presented to the County Board of Commissioners, duly attested, and if approved by said Board the County Supervisor shall draw his warrant upon the County Treasurer, under the seal of the County Board of Commissioners, for the amount of any such claim or claims, which warrant shall be countersigned by the Secretary of the Board, and the same shall be paid by said Treasurer out of the County road fund.

Sec. 929. No claim against the County of Cherokee shall be paid unless such claim is accompanied by an itemized statement, sworn to by the claimant and approved in writing by the Township Commissioner who authorized the claim;

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County in their respective offices (fees of said officers being to them individually not to be included in said statement) and file the same with the Board of County Commissioners, taking a receipt therefor, to be filed with grand jury at each term of the Circuit Court, who examine the same as provided in Section 931.

Statements to be turned over to grand jury.

Sec. 933. All the said statements provided to be in Sections 931 and 932 shall be turned over to the Board of County Commissioners, which said Board shall immediately thereafter file the said statement with the grand jury of said County for their information and investigation. The same to be returned by them to the Clerk of the Circuit Court immediately after their investigation, and to be by him kept in his office.

Punishment for violating last three Sections, see Criminal Code, Sec. 1831.

County Supervisor to publish quarterly reports.

1907, XXV, 634; 1910, XXVI, 631.

Exceptions.

Sec. 934. The Supervisors of the State are required to publish in some newspaper published in their respective Counties, at least in one issue thereof, and within fifteen days after each meeting of the County Board of Commissioners at which claims are audited, a full statement of all claims audited by said board at its meeting immediately preceding said publication. The said statement shall show the date of publication, the file number of the claim, the amount claimed, the amount allowed, the nature of claim or services rendered, and the name of the claimant. Said publication shall be paid for at the rate now allowed by law for public printing. *Provided*, The same does not exceed sixty dollars per annum: *Provided*, The provisions of this Section shall not apply to the Counties of Barnwell, Bamberg, Charleston, Chesterfield, Darlington, Anderson, Berkeley, Kershaw, Horry, Laurens, Marlboro, Marion, York, Oconee, Lexington, Georgetown, Lancaster, Chester, Greenwood, Pickens, Union and Cherokee.

See State ex rel. Fosse v. Barley, 80 S. C., 130; 61 S. E., 255.

County Commissioners to publish statement.

1910, XXVI, 671.

Sec. 935. In Aiken County the Board of County Commissioners shall prepare and publish in one issue of one or more County newspapers quarterly, a verified itemized statement showing all the moneys received by said Board, the source from which said moneys came, and each and every

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inst the County which shall have been approved and said Board, said statement to be totaled and show balance, if any, remains to the credit of said office, or deficit, if any. The original of said statement shall with the grand jury of the County for their information and investigation.

936. It shall be the duty of the County Supervisors and County Boards of Commissioners of each County in this State, and they shall be required to have a duplicate of each claim approved by the said County Supervisors or by the County Boards of Commissioners for each fiscal year, the duplicate copy to show the Township from which it originates, and be for the use of the Senators and Members of the House of Representatives of their respective Counties, and the said duplicates to be made as the different transactions occur in the different offices of the County Supervisors and County Board of Commissioners, and to be delivered on demand to the Senator or any of the members of the House of Representatives upon their receipt for the same: *Provided*, That at the beginning of each fiscal year the Senator or one of the members of the House of Representatives shall give notice that such duplicate copy is required of them for their use or for the use of the legislative delegation from their County.

937. The members of the County Board of Commissioners shall have power to administer oaths to all persons appearing before them, and to punish by fine not exceeding fifty dollars, or imprisonment in the County jail not exceeding twenty hours, any and all persons guilty of disorderly conduct amounting to an open or direct contempt or wilful obstruction of their proceedings.

938. That from and after the approval of this Act the Chairmen of the Boards of Township Commissioners in several Counties of this State be, and they are, invested with power and authority to administer oaths as are the Clerks of the Court of Common Pleas and the Clerks of the Court of Sessions, in all matters connected with the conduct of their offices.

939. All the Courts of this State and municipal corporations which under existing laws have power to sentence convicts to confinement in prison with hard labor, shall sentence all able-bodied male convicts to hard labor

County Supervisors and Board of County Commissioners to furnish duplicate copy of all approved claims to their Representatives when required.

Civ. '02, § 770.

Right to administer oaths and punish.

Civ. '02, § 771.

Chairmen of Boards of Township Commissioners may administer oaths.

1907, XXV, 651.

Convicts may be sentenced to County chaingangs.

Civ. '02, § 772.

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Municipal
convicts: pro-
viso as to
time.

upon the public works of the County in which said persons shall have been convicted, and in the alternative to imprisonment in the County jail or State Penitentiary at hard labor:

Provided, That municipal authorities may sentence municipal convicts to work upon the streets and other public works of the municipality in which they have been convicted, and such convicts when so sentenced shall work under the exclusive direction and control of the municipal authority imposing sentence: *Provided*, That no convict whose sentence shall be for a period longer than five years shall be so sentenced.

County Su-
pervisor to
have charge
of chain-
gangs: how
they are to be
worked.

Civ. '02, §
778.

Sec. 940. All convicts upon whom may be imposed sentence of labor on the highways, streets and other public works of a County shall be under the exclusive supervision and control of the County Supervisor and by him formed into a County chaingang and required to labor on the highways, roads, bridges, ferries and other public works or buildings of the County; and he shall direct the time, place and manner of labor to be performed by said chaingang: *Provided*, That said chaingang shall not be worked in connection with or near any road contractor or overseer. And all convicts upon whom may be imposed sentence of labor on the highways, streets or other public works of a city or town shall be under the exclusive supervision and control of the municipal authorities of such city or town, or such officer or officers as such municipal authorities may appoint, and by them or him formed into a city or town chaingang, and required to labor on the streets, lanes, alleys, drains and other municipal public works or buildings of such city or town (including public parks owned and controlled by such city or town, whether within or without the corporate limits of such city or town), but on no other highways, streets or other public works in or of the County in which such city or town may be situated: *Provided*, That if any convicts upon whom may be imposed sentence of labor on the highways, streets and other public works of a County are not formed into a County chaingang, or are not required to labor on the highways, streets and other public works of a County, they may be required to labor on the highways, streets and other public works of any city or town in such County having a city or town chaingang, upon such terms as may be

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own Counties respectively: *Provided*, That all contracts entered into by any Supervisor hereunder for the hire or exchange of convicts hereunder be approved by a majority of the Board of County Commissioners of his County.

Regulation
as to board,
etc.

Civ. '02, §
778.

Sec. 945. Any County in this State maintaining a chain-gang and hiring convicts of another County, or exchanging convict labor with such other County, as herein provided, shall at its own expense board, clothe, and securely keep such convicts while in the custody of its officers.

Hire of to
be paid into
County Treas-
ury.

Civ. '02, §
779.

Sec. 946. Any money due any County under any contract herein authorized shall be collected by the Treasurer of such County and turned into the County Treasury, to aid in defraying the current and ordinary expenses of such County, and any money due by any County under any contract herein authorized shall be paid by the Treasurer of such County upon the warrant of the Supervisor thereof, as other County funds are disbursed.

County chain-
gangs may be
utilized to
promote pub-
lic health.

Civ. '02, §
780.

Sec. 947. The County Board of Commissioners shall have power and authority, in their discretion, to utilize the County chaingang in whole or in part in any kind of work calculated to promote or conserve public health in the County or in any community thereof, in which the sentences of the convicts on such gang were pronounced.

Fees for diet-
ing prisoners.

Civ. '02, §
781.

Sec. 948. The County Supervisors and County Boards of Commissioners of the several Counties of this State shall diet all prisoners while in their care and custody outside of the jails at actual cost.

Clothing
prisoners reg-
ulated.

Civ. '02, §
782.

Sec. 949. The said County Supervisors and Boards of Commissioners shall furnish suitable covering and clothing, when necessary, to all prisoners sentenced to chaingangs in the various Counties of this State at actual cost, to be paid by the various Counties, respectively: *Provided*, The provisions of this Section shall not apply to the Counties of Beaufort, Marion, Charleston, Chesterfield, Colleton, Barnwell, Richland, Berkeley, Sumter, Anderson, Pickens, Williamsburg, Newberry, Union, Georgetown, Aiken, Lexington, Laurens, Oconee, York and Darlington.

Surrender of
convicts.

Civ. '02, §
783.

Sec. 950. In case any convict or convicts so employed by the County Supervisor shall become ungovernable or unfit for the labor required of such convict or convicts, the said Supervisor may commit such convict or convicts to the State

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ry or County jail. And it shall be the duty of the
ndent of the Penitentiary, or the Sheriff of the
s the case may be, to receive any such convict or
o committed, when said chaingang is not employed,
convenient and practicable, they shall be confined
ounty jail for safe keeping under direction of said
r.

Safekeeping
of convicts.

1. The County Board of Commissioners shall be
d and required to employ a physician or physicians
necessary to render medical aid to sick convicts
reserve the health of the chaingang. The fees and
of the same, as well as for medicines prescribed, to
ut of the road fund as other claims are paid against
ls.

Health of
convicts.Civ. '02, §
784.Fees and ex-
penses.

2. The County Board of Commissioners shall
neral supervision over the paupers and the Poor
nd Farm of the County, and the said Board shall
all necessary buildings for the accommodation of
of the County, with sufficient tillable land to give
ent to all paupers able to work, and said buildings
s shall be designated as the Poor House and Farm
ounty.

Paupers and
Poor House.Civ. '02, §
785.Farming
land.

endent of Poor House public office; appointment; tenure.—San-
ue, 78 S. C., 173; 58 S. E., 762.

3. Said Board shall be empowered to make all
y rules and regulations for the government of the
Poor House and Farm, to appoint a superintendent,
h assistants as may be needed, to provide means for
loyment as may be best suited to the inmates of the
ouse, to see that every pauper able to work is
d, and to appoint one or more physicians to the
ouse, who shall furnish medical aid to the indigent

Regulations
for Poor
House.Civ. '02, §
786.Superintend-
ent and as-
sistants.

Physicians.

v. Belue, 78 S. C., 173; 58 S. E., 762.

4. The County Board of Commissioners shall
wer to , sue for and receive all such gifts,
, fines, res and all other moneys or things
may be coming to the use of the poor.

Control of
property for
the poor.Civ. '02, §
787.

5. In y poor child or children shall be, or
charg the County, the County Board of
sioners d out any such child or children as

Apprentice-
ship of poor
children.Civ. '02, §
788.

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Ages.

Illegitimate children.

Moneys paid by fathers of bastards.

Civ. '02, § 789.

Contracts as to Poor House.

Civ. '02, § 790.

Advertisement for bids.

Claims in reference to Poor House and farm: how proven and paid.

Civ. '02, § 791.

Report to Court as to Poor House.

Civ. '02, § 792.

an apprentice to some person of good moral character and such child, if he be male, shall arrive at the age of six years, and if it be a female, until she arrive at the age of fourteen years or shall marry. The said Board shall have power to bind out to service, under some person of good moral character, any illegitimate child or children liable to become chargeable to the County, or liable to be demoralized by the immoral conduct or evil example of their mother or other persons having them in charge, in the manner provided for the time prescribed for pauper children, and they shall have power to issue all necessary writs to enforce the provisions of this Section.

Sec. 956. Any moneys becoming due on any recognitions given for the maintenance of any illegitimate child or children, if such child or children shall be bound out to service, shall be paid to and received by the Supervisor, to be invested and expended by him under the order of the Probate Court for the benefit of such illegitimate child.

Sec. 957. The County Board of Commissioners shall have power to make all contracts in reference to supplying the Poor House and inmates thereof, repairing buildings and other necessary expenses incident to the care and maintenance of said Poor House and Farm. Where any contracts shall exceed the sum of twenty dollars, they shall advertise and receive bids for same, and shall accept the lowest bid from a responsible person.

Sec. 958. All accounts, claims and demands, of whatever nature, against the County in reference to the Poor House or Farm for the maintenance and support of paupers shall be presented, duly attested, to the County Board of Commissioners, and be by them audited, allowed or rejected; and for the amount of any claim so audited or allowed the County Supervisor shall draw his warrants, under the seal of the Board, upon the County Treasurer, countersigned by the Secretary of Board, who shall pay the same out of the pauper fund of the County.

Sec. 959. The County Board of Commissioners shall, at the last term of the Court of General Sessions in each year, make a report to the presiding Judge, to be by him submitted to the Grand Jury, of all their actings and doings for the fiscal year, containing an itemized statement of all amounts

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Receivable
for taxes.

received by him in the payment of all County taxes duly approved by the County Supervisor.

Witness fees need not be proved by affidavit before payment of certificate. *State v. Bullock*, 54 S. C., 300; 32 S. E., 424. Nor need they be approved by the County Supervisor unless presented in payment for taxes.—17.

Boards of
County Com-
missioners to
deduct from
Constables'
salaries
amounts paid
to certain
persons in
certain cases.

Civ. '02, §
796.

Sec. 963. In all Counties of the State wherein Magistrates are allowed by law to appoint a constable, such constable so appointed receiving a salary from the County in lieu of all costs and fees in criminal cases, it shall be the duty of the Board of County Commissioners to deduct the salary of such constable all sums paid to any other person or persons for service rendered the County in criminal cases while acting under appointment by such Magistrate on a particular occasion, unless it is proven to the satisfaction of the Board of County Commissioners that such services were rendered in an emergency wherein it was impossible for the constable entitled to the salary to perform the said services.

Approval of
other fees.

The accounts of the Coroners and Sheriffs and Supervisors, and physicians' or surgeons' fees for *post mortem* examinations shall be approved by County Board of Commissioners, and the Supervisor, on their approval, shall draw an order upon the County Treasurer for the payment of the same, countersigned by the Secretary of the Board.

Payment.

Duty of
Sheriffs, Con-
stables, etc.Civ. '02, §
797.

Sec. 964. Sheriffs, Deputy Sheriffs, Coroners and Constables shall execute all legal orders to them directed by the Boards herein provided for, or the Chairman thereof. They shall receive therefor the same fees and costs allowed in other cases.

Reports by
County offi-
cers.Civ. '02, §
798.

Sec. 965. The reports of the County Treasurer and other officers now required by law to be made to the Board of County Commissioners shall be made to the County Supervisor, and all settlements by any of the County officers now required to be made with the Board of County Commissioners or its Chairman shall be made with the County Supervisor.

Estimate of
County ex-
penses.Civ. '02, §
799.

Sec. 966. The County Board of Commissioners shall prepare an estimate of the amount of money necessary to pay the expenses incurred by said Boards and for ordinary County expenses, and report the same to the Comptroller General of the State, on or before the 5th day of January

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may be examined and ordered to be paid at the annual meeting; and it shall be the duty of all persons holding such accounts or claims, not paid, to deposit them with the Clerk of the Board, as required in the notice.

Provisions
as to Magis-
trates' and
other officers'
fees.

Civ. '02, §
805.

Sec. 971. All fees and accounts of Magistrates and other officers for criminal proceedings, including cases of vagrancy, when not recovered from the defendant or party complaining, at the rates allowed by law, shall be paid by the County wherein the offense shall have been committed: *Provided*, Said fees and accounts do not exceed the sum of five hundred dollars per annum, and all accounts rendered for such proceedings shall state when such offense was committed. The provisions of this Section shall not apply to the Counties where, by special legislation, such fees and accounts have been otherwise provided for.

Not inconsistent with Section 961, Subdiv. 5 above.—*Rogers v. Marlboro Co.*, 32 S. C., 555; 11 S. E., 383.

Claims
against Coun-
ty: how made
out and veri-
fied.

Civ. '02, §
806.

Sec. 972. No accounts shall be audited and ordered to be paid by the County Board of Commissioners for any labor performed, fees, services, disbursements, or any other matter, unless it shall be made out in items and accompanied with an affidavit attached thereto, and made by the person or officer presenting or claiming the same, that the said items are correct, and that the labor, fees, disbursements, services or other matters charged therein have been in fact done, made, rendered or are due, and that no part of the same has been paid or satisfied. And the Clerk of the Court, the Sheriff and Magistrates shall declare further on oath that the costs in such cases have not been recovered out of the defendants, and that the defendants are unable to pay costs; and also that the fines and penalties heretofore collected by them have been faithfully and fully paid over to the County Treasurer. In every case the Magistrates shall exhibit the original papers in which costs have accrued. Nothing in this Section shall be construed to prevent the Board from disallowing any account, in whole or in part, when so rendered and verified, if it appears that the charges are incorrect or that the services or disbursements have not, in fact, been made or rendered, nor from requiring any other or further evidence of the truth or propriety thereof. No allowance or payment beyond legal claims shall ever be

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next thereafter; and all claims not so presented and shall be barred; and no claim audited and allowed by County Board of Commissioners or Clerk of Court for of witnesses and jurors shall be paid by the County Treasurer unless the same is presented to him for payment within five years from the date it is audited and allowed. This provision shall not affect the law now of force as to bonded debt of any County.

State v. Knight, 81 S. C., 81: 9 S. E., 692.

A claim against a County for the expenses of a trial is not barred if presented within the next year after the completion of the trial.—Collet v. Hampton Co., 52 S. C., 589; 30 S. E., 484.

Claim must show year in which it arose.—State ex rel. Bank v. Goodwin, 81 S. C., 419; 62 S. E., 1100.

When and how orders on County Treasurer to be drawn.

Civ. '02, § 806.

Sec. 975. The County Supervisor shall draw orders on the County Treasurer, under the seal of the Board, countersigned by the Secretary or Clerk of the Board, for all accounts against the County which they have allowed. He shall draw no orders until after the monthly report of the County Treasurer has been received by them, and unless he has reported the funds in the Treasury to pay the same; and the County Supervisor shall inform the County Treasurer of all orders drawn, in whose favor, the amount, and the order in which they are drawn.

It shall not be lawful for any County Treasurer to pay any order of the Board of County Commissioners unless drawn in conformity with this Section; and it is made the duty of the Comptroller-General, in case of any violation of the provisions of this Section which may come or be brought to his notice, to report the offender to the Attorney-General for prosecution, or to the Governor for dismissal, as the case may be.

State ex rel. Bank v. Goodwin, 81 S. C., 419; 62 S. E., 1100.

Must give certified copies of accounts audited to persons demanding them.

Civ. '02, § 810.

Sec. 976. It shall be the duty of the County Supervisor to designate every account upon which any sum shall be audited and allowed by the Board, the amount so audited and allowed, and the charges for which the same was allowed; and he shall also deliver to any person who may desire it a certified copy of any account on file in his office, on receiving from such person ten cents for every folio of one hundred words contained in such copy; and the Supervisor shall endorse on every account allowed

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May change
names of
townships;
notice.

Civ. '02, §
815.

May borrow
money in cer-
tain Coun-
ties.

Civ. '02, §
816; 1903,
XXIII, 28;
1905, XXV,
833; 1904,
XXV, 392.

Purpose.

Security.

Limit.

Interest.

Greenville.

1904, XXV,
416.

Counties. They shall give notice of such change of name as they may make, within fifteen days thereafter, by publication in a public gazette published in their respective Counties, or by notices posted in at least three public places in the County if no gazette is published therein.

Sec. 982. The County Supervisor, with the approval of the County Board of Commissioners in each of the Counties of Greenville, Greenwood, Lee, Pickens, Laurens, Orangeburg, Abbeville, Hampton, Berkeley, Anderson, Sumter, Chester, Richland and Georgetown, is authorized and empowered, for any fiscal year, to borrow, upon the faith and credit of the County, a sufficient sum or sums of money to pay, in advance of the collection of taxes therefor, ordinary County expenses, school claims and past due claims against the County, and as security for the repayment of said loans, with interest, to pledge the taxes to be collected and applicable to the claims for the payment of which said money shall have been borrowed: *Provided*, That the amount borrowed in any year for any of said purposes shall not exceed the tax levy therefor for that year, and that the rate of interest shall not exceed seven per cent. per annum: *Provided, further*, That in the County of Greenville the sum borrowed for the payment of school claims shall not exceed five thousand dollars in any year: *Provided, further*, That no part of the money so borrowed in Greenville County shall be applied to the payment of past due claims against said County.

The obligation for the repayment of said loan shall be substantially in the following form:

\$.

OFFICE OF COUNTY SUPERVISOR,

Form of ob-
ligation.

Civ. '02, §
817.

.....County, S. C.,

....., S. C., 19..

On or before the day of, 19.., the County of promises to pay to or order the sum of dollars, with interest at per cent. per annum from, money borrowed to pay (here insert the purposes of loan) for the fiscal year

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January 1, 19... , under authority of the Act of
passed at regular session 1894. To secure the pay-
aid sum and interest the taxes of said County to be
and applicable to claims for the payment of which
y is borrowed as aforesaid for the said fiscal year
y pledged to the payee hereof or order.
s the hand and official seal of the County Super-
aid County, attested by the Clerk of the Board, the
year first above written.

ed by [Seal.]
....., Supervisor of County.
ary of Board. Countersigned by
Treasurer of County.

an obligation substantially in the above form shall valid debt.
e a valid debt against the County so borrowing,
same shall be a prior and preferred lien upon the
edged for the payment thereof.

83. The County Supervisors and Treasurers shall
e money so borrowed on the tax levies for their
ve Counties for the specific purpose of such levies,
g to the terms of the Act to raise supplies for the
which the loan is effected.

Duty of
Supervisor
and Treas-
urer.
Civ. '02, §
818.

84. That the money so loaned as aforesaid shall be
the lender to the Treasurer of the County for whose
it is borrowed. The said Treasurer shall thereupon
sign said obligation, and his signature thereto shall
ned sufficient evidence of the receipt of said money

Money to be
paid to Treas-
urer.
Civ. '02, §
819.

Supervisor and Board of County Commissioners are prohibited
County. See Criminal Code, Section 581.

IAL PROVISIONS AS TO CERTAIN COUN-
TIES.

AIKEN COUNTY.

985. The County of Aiken is hereby divided into
districts, numbered 1, 2, 3, and 4: No. 1 to comprise the
ships of Aiken, Millbrook, Windsor and Sleepy Hol-

Aiken Coun-
ty divided
into four dis-
tricts.
1908, XXV,
1186.

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low; No. 2 to comprise the Townships of Silverton, Hammond, Langley and Schultz; No. 3 to comprise the Townships of Gregg, Shaw, Wards, McTier and Chinquapia; No. 4 to comprise the Townships of Rocky Spring, Giddy Swamp, Hopewell, Rocky Grove and Tabernacle.

County gov-
ernment.

Sec. 986. The County government of Aiken County shall be administered by a Chief Commissioner and Advisory Board, known as the County Board of Commissioners; said County Board to consist of one man in each district, to be known as the District Commissioner; said District Commissioner to be appointed by the Governor, upon the recommendation of the legislative delegation; and said Commissioners shall, each, take the usual oath of office, give bond in the sum of five hundred dollars (\$500.00) for the faithful performance of his duties; said Commissioners shall hold their office for the term of two years or until their respective successors are appointed and qualified. Each District Commissioner shall be a resident of his respective district.

Chief Com-
missioner.

Sec. 987. The Chief Commissioner shall be elected and give the same bond as now provided by law in Aiken County for Supervisor. He shall receive a salary of one thousand dollars (\$1,000.00), and shall hold office for the term of two years or until his successor is elected and qualified. He shall devote his entire time and attention to the duties of his office. His office shall be open and his clerk there Mondays, Tuesdays and Saturdays of each week.

Duties.

Sec. 988. The Chief Commissioner shall inspect the public roads of the County and shall consult and advise with the District Commissioners as to their maintenance and improvement, and shall supervise the said maintenance and improvement and see that the work is performed thereon. The said Chief Commissioner is required to attend, with the District Commissioner, the letting out and receiving of any contract for public work in any district of the value of twenty-five dollars or more. He shall examine all claims against the County, and shall submit the same to the Board with his recommendation thereon. He shall see that the laws pertaining to the County Government are faithfully carried out.

Further du-
ties.

Sec. 989. The Chief Commissioner and Board of County Commissioners shall have charge of the chaingang and all

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mutation tax list as filed by the County Treasurer, and shall report back to the District Commissioner not later than March 1st, of each year, the names of all persons in the respective districts who have not paid the commutation tax and are liable for road duty for that year. Each District Commissioner shall direct the overseer of the free labor force, while working in his respective districts (and it is hereby made the duty of said overseer so to do), to summon out these road hands at such time or times as he thinks most beneficial to the public service, and shall work them upon the roads for three days each year.

Duty as to
road duty.

Sec. 992. It shall be the duty of the District Commissioners to swear out warrants before a Magistrate against persons who shall fail or refuse to perform road duty, after being summoned thereto.

Road fund.

Sec. 993. The road fund shall consist of (a) the sum apportioned by the Chief Commissioner and County Board of Commissioners to each Township; (b) the commutation tax for said Township; (c) any special local tax in any Township for improvement; (d) the portion of the general road fund allowed to the respective Townships.

Per diem of
Commissioners.

Sec. 994. Each District Commissioner shall receive the sum of three dollars per day for every day actually employed, for not exceeding one hundred days in each year.

Claims; how
paid.

Sec. 995. All claims against the County shall, before payment, be approved by the Chief Commissioner and at least two of the District Commissioners.

BERKELEY COUNTY.

Parish Com-
missioners to
be appointed.

Sec. 996. The Governor shall, upon the recommendation of the Senator and Representatives of said County, or a majority of them, appoint for each of the parishes in the said County three suitable persons, who shall be known as Parish Commissioners, and who shall hold office for two years, and until their successors shall have been appointed, and shall have qualified: *Provided*, That only three Commissioners shall be appointed for the combined parishes of St. Thomas and St. Dennis.

Board to or-
ganize.

Sec. 997. The several sets of Parish Commissioners shall at once organize themselves into Boards by the election of two of their number as Chairman and Secretary, respec-

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more than twelve days while attending the meetings of Board as provided for in Section 1001, and three dollars a day for not more than four days while attending the court house for the purpose of equalizing property, together with five cents a mile for every mile of necessary travel while so engaged.

DORCHESTER COUNTY.

Duties and
powers of
county Su-
pervisor.

Sec. 1003. The County Supervisor shall have an office at the court house and shall attend thereon at least one day in each week and shall give his entire time to perform the duties of his office. He shall examine into all claims presented against the County and shall submit the same to the County Board of Commissioners with his recommendations thereon. He shall let all contracts for bridges or other public work, except such work as may be exclusively in charge of the Township Commissioners, and shall advertise for bids on any contracts where the cost is over twenty-five dollars. He shall personally inspect all work done under his contracts and vote for claims therefor. Such claims shall not be valid for payment until approved by the County Board of Commissioners.

Further du-
ties.

Sec. 1004. The County Supervisor shall have charge of the County chaingang and shall distribute its benefits among the various Townships as impartially as possible and shall appoint an overseer and guard therefor, but the compensation shall be fixed by the County Board of Commissioners. He shall publish an annual report of the operations of the chaingang, showing the expense of the same, the number of days of work actually done by the convicts, the average daily cost of the same, and the number of miles of roads constructed or repaired in each Township, and the value of mules, machinery and equipment of the chaingang outfit. He shall inspect the public roads in the County and shall consult and advise with the Township Commissioners as to their maintenance and improvement; he shall ascertain, either by measurement or reliable records, the exact number of miles of public road in each township; he shall have the boundaries of the Townships plainly marked, and shall have mile posts erected along the public roads showing the

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the purpose of organization, and the said County Board of Commissioners shall meet thereafter on the first Monday in each month for the transaction of business, and a majority of said Board shall constitute a quorum. The County Supervisor shall be chairman of the said Board and preside at its meetings. The said Board shall elect a clerk, who shall act as secretary of said Board, and who shall receive a salary of one hundred and fifty dollars per annum. In the absence of the County Supervisor some member of said Board shall act as chairman and preside over the meeting.

May borrow money.

Sec. 1008. The said County Board of Commissioners shall have power to borrow money for the use of the County, and the County Supervisor shall execute the loan by virtue of a resolution of the said Board, and no loan shall be made by him except in pursuance of such resolution: *Provided*, They shall make no obligation except as they be authorized by special Act of the General Assembly.

Commutation tax; duty as to.

Sec. 1009. Each Township Commissioner shall assist the County Auditor in ascertaining the names of all persons living in his Township who are liable to pay the commutation road tax. It shall be the duty of each Township Commissioner to swear out warrants before a Magistrate against all persons liable to pay the commutation road tax and who shall fail to do so within the time provided by law.

Further duties of Township Commissioners.

Sec. 1010. The Township road fund shall consist of the money arising from the commutation road tax for the Township. Each Township Commissioner shall have jurisdiction and control over the Township road fund for his Township, and shall expend the same for the maintenance and improvement of the public highways and bridges in his Township. He shall let all contracts and personally inspect all work done under his jurisdiction, and shall vouch for and attest every claim against his Township road fund before it shall be submitted to the County Board of Commissioners for approval, and upon approval of said County Board of Commissioners become valid for payment. No Township Commissioner shall expend more than the amount of his Township road fund in any year, and no Township Commissioner shall present any claim for approval for any material or any hands or mules or horses or wagons furnished by him.

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Compensation.

Sec. 1017. The said County Commissioners shall each receive as compensation for their services an annual salary of six hundred dollars, payable monthly, upon the warrant of the chairman, countersigned by the clerk.

Term of office.

Sec. 1018. The County Commissioners provided for herein shall be elected at the general election of 1912, and their successors every four years thereafter, and shall qualify and enter upon the discharge of the duties of their offices upon the expiration of the term of office of the present Supervisor and County Commissioners for said County of Greenville.

Supervisor of Greenville County to keep book called "File-Book of Claims."

1910, XXVI, 729.

Sec. 1019. The County Supervisor of Greenville County shall keep a book called "File-Book of Claims," in which shall be entered all claims as presented. This book shall be printed and ruled with appropriate columns showing: (1) Claim number. (2) Date of filing. (3) By whom presented. (4) To whom claim belongs. (5) Nature of claim. (6) Date of action. (7) Amount of claim. (8) Amount allowed. (9) Amount disallowed. (10) Item number in Supply Act to which chargeable. (11) Remarks. The number of claim shall not be entered upon the book until the claim shall have been allowed and entered on the "Claims Classification Book" hereinafter provided for, and shall then be made to conform to the number thereon. A separate claim must be filed for each account chargeable to any particular item in the County Supply Act or to any subdivision thereof. The principal of each note for money borrowed in anticipation of the collection of taxes shall be paid directly by the County Treasurer, the said Treasurer holding said note as his voucher for the principal thereof and the lender filing claims with Supervisor in the usual form for the interest, but not for principal; except where a specific appropriation shall have been made, for the payment of a particular note.

Also one called "Classification of Claims allowed."

Sec. 1020. The County Supervisor shall keep a book called "Classification of Claims Allowed," in which shall be entered all claims allowed in numerical order. This book shall be printed and ruled with appropriate columns showing: (1) Line number. (2) Claim number. (3) Warrant number. (4) Item number in Supply Act to which chargeable. (5) Claimant. (6) Nature of claim. (7) Amount allowed. (8) Amount paid. (9) Date paid. (10) Amount

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for taxes and penalty. (6) County taxes, with subsidiary columns for: (a) Taxes for all purposes; (b) Penalty; (c) Commutation road tax; (d) Fines, fees and licenses; (e) M. C. fees; (f) Miscellaneous income; (g) Total receipts for County; (h) Loans for County; (i) Special local tax (Dunklin and Oaklawn Townships). (7) School taxes, with subsidiary columns for: (a) Townships; (b) School districts; (c) 3-mill tax; (d) Penalty; (e) Special school tax; (f) Penalty; (g) High school tax; (h) Penalty; (i) Interest on school bonds; (j) Penalty; (k) Poll tax; (l) Penalty; (m) Capitation dog tax; (n) Penalty; (o) Miscellaneous income; (p) Total receipts for schools; (q) Loans for schools. It is hereby made the duty of the County Auditor of Greenville County to distribute upon said books the items of receipts for taxes to appropriate columns herein required.

Also disbursements for County expenses.

Sec. 1024. The County Treasurer shall keep a book called "Disbursements of all Funds for County Expenses," in which shall be recorded all disbursements made by him on account of County expenses for each fiscal year. This book shall be printed and ruled with appropriate columns showing: (1) Line number. (2) Claim number. (3) Warrant number. (4) Item in Supply Act to which chargeable. (5) Date of payment. (6) Claimant. (7) Nature of claim. (8) Columns headed and numbered "Item No. 1," and upward, with a tabulated statement intended to apply to such at the head of each column, showing: (a) The amount of the appropriation made for each particular item; (b) The amount of warrants paid to date chargeable to such item; (c) The balance of the appropriation subject to future warrants. (9) Loans. (10) Miscellaneous. (11) Total, with tabulation as in (8).

"Disbursements of School Funds."

Sec. 1025. The County Treasurer shall keep a book called "Disbursements of School Funds," in which shall be recorded all disbursements made for school purposes during each fiscal year. This book shall be printed and ruled with appropriate columns, showing: (1) Line number. (2) School district number. (3) Warrant number. (4) Treasurer's number. (5) Date of payment. (6) Claimant. (7) Nature of claim. (8) General Cash Book folio. (9) Amount. (10) Common school and special school tax. (11)

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ol tax. (12) Interest on school bonds. (13) Mis-

6. The County Treasurer shall keep a book "Monthly Cash Book," County Treasurer's General Monthly Cash Book," he shall make up a statement within the first five every month, showing the amount of receipts and ents during the preceding month on account of unty and school taxes for each fiscal year not com- posed. This book shall be printed and ruled with ate columns, showing: (1) Date received. (2) h receipt book folio. (3) Department. (4) Ledger) Taxes. (6) Penalty. (7) Total receipts. (8) payment. (9) Disbursement book folio. (10) ent. (11) Ledger folio. (12) Total disbursements. e head of "Department," on the debit side, shall d the amount of State taxes received during the r month: the amount of County taxes received for hall include taxes for all purposes, nes, fees and licenses, Register of miscellaneous income, loans for n special local tax, Oaklawn special school taxes received for the same ude the 3-mill tax, special school interest on school bonds, poll tax, allaneous income loans for schools. ount shall also show, in tabulated id from last month of State taxes, taxes, separately stated, aggregated receipts for the month. Under the on the credit side of the account, y disbursements of State taxes for isbursements of County taxes for bursements of school taxes for the stated and aggregated; also the nd of the month to be carried for- arately stated, showing State taxes, taxes, and aggregated. This state- eparately, cash in the Treasurer's t in bank aggregated and agreeing hown. Within the first 20 days of January, April, July and October,

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the County Treasurer shall publish one time in a newspaper of the County, selected by him as calculated to give full publicity thereto, a condensed statement, approved by the County Auditor, of receipts and disbursements from the beginning of the fiscal year on account of the foregoing taxes, separately stated, and the balances on hand at the end of the preceding quarter to the credit of each. The advertising charges therefor shall not exceed \$2.50 for each insertion.

Treasurer to
make monthly
report.

Sec. 1027. The County Treasurer shall within the first five days of every month, make a report to the County Board of Commissioners of the collections and disbursements of all funds for county expenses during the preceding month for each fiscal year upon account of which the same shall have been received. Each fiscal year shall be kept separate and distinct, and the County Treasurer shall make out as many reports as there are fiscal years to which the same are to be charged. He shall keep a book in which these reports shall be made out. The Supervisor shall keep a similar book and shall, on or before the first day of each month, deliver the same to the County Treasurer to be filled out in conformity with the book kept by said Treasurer. This book shall be printed and ruled with appropriate columns and headed "County Treasurer's Monthly Report to the County Board of Commissioners of the Collections and Disbursements of all Funds for County Expenses, from19.., to19.., for the fiscal year commencing January 1, 19.., and ending December 31, 19.." This report shall contain two subdivisions, one of which shall show receipts for all county purposes, and the other shall show expenditures authorized and total disbursements to date. The first subdivision shall show in tabulated form the balance on hand from last report, and receipts by County Treasurer since last report, aggregated, from which shall be deducted disbursements since last report, showing balance on hand at date of report. The second subdivision shall be printed and ruled with appropriate columns, showing: (1) Classification item number. (2) Purposes. (3) Expenditure authorized by law. (4) Total disbursed to date. (5) Limit of disbursements for future claims. Under the subdivision, "Purposes," shall be entered in numerical order the items of

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ation conformably with the County Supply Act. The column, "Expenditure authorized by law," shall be entered separately, the amount of appropriation for the several items as contained in Supply Act for the year. The column "Total disbursed to date," shall be entered the amount of disbursements made by the County Treasurer, chargeable to the several items by classification.

Under the column "Limit of disbursements for claims," shall be entered the difference between "The expenditure authorized by law" and "Total disbursed to date." The report shall be signed and dated by the County Treas-

028. The County Treasurer shall keep a book of To keep Bills Payable Book. "Payable," in which he shall enter as, and when made, for loans in anticipation of collections of taxes. The report thereon shall show: (1) Note number. (2) Date of issue. (3) Date due. (4) Payee. (5) Amount. (6) Rate of interest. (7) Date paid. Said notes shall be numbered in the order in which they shall have been executed. Such

as made by the County Treasurer with such a city of Greenville, of approved character, shall offer the most favorable terms upon thirty days' advertisement; the proper terms and conditions as may be determined by the County Treasurer upon consultation with the Board of Education.

The notes therefor shall contain an obligation of the County to pay the same at any time upon demand, with interest to date of payment; and it is the duty of the County Treasurer, as he may determine thereeto, to pay the same.

The County Treasurer shall, within the first month of each year, make a report to the County Board of Education of the collection and disbursement during the preceding month for each item of which the same shall have been made. The report of each year shall be kept separate and distinct.

The County Treasurer shall make out as many annual reports as there be fiscal years to which the same are to be made. He shall keep a book in which these reports shall be filed. The County Superintendent of Education

To make monthly report of school disbursement.

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shall keep a similar book, and shall, on or before the first day of each month, deliver the same to the County Treasurer to be filled out in conformity with the book kept by the said Treasurer. This book shall be printed and ruled with appropriate columns and headed, "County Treasurer's Monthly Report to the County Superintendent of Education of the Collections and Disbursements of all Funds for School Expenses from, 19.., to, 19.., for the fiscal year commencing July 1, 19.., and ending June 30, 19.." This report shall contain, in tabulated form, a statement showing balance on hand from last report, amount collected since last report, aggregated, from which shall be deducted disbursements since last report, showing balance on hand at the date of the report, and remarks. This report shall be signed by the County Treasurer and dated.

Also receipt book.

Sec. 1030. The County Treasurer shall keep a book of blank receipt forms, which he shall use in receipting for all moneys other than taxes. This book shall be printed with a stub and perforated lines separating stub from receipt. Upon the stub shall be printed the following: (1) Number. (2) Date. (3) Received of. (4) Amount. (5) Cash Book folio. (6) On account of. (7) Signature—Payer and Treasurer. The person paying money to the Treasurer shall sign in the blank space entitled "Payer," and the Treasurer shall, in like manner, sign in the blank space entitled "Treasurer." The receipt shall be in the following form:

"No..... Office of County Treasurer.

Greenville, S. C.,19...

Received of.....dollars (\$.....)
on account of.....

.....County Treasurer."

Entries to be made in ink.

Sec. 1031. All entries, footings and amounts carried forward, in the book hereinbefore provided for, shall be made in ink. Each page shall show perfect balancing of all columnar additions, and of all footing carried forward.

Supervisor not to spend funds for other purposes than that for which appropriated.

Sec. 1032. The County Supervisor is hereby prohibited from drawing any warrant upon the County Treasurer to be paid out of any of the several funds specifically appropriated for any purpose other than that for which the same

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been so appropriated; and it shall be unlawful for the County Treasurer to pay any such inhibited warrant. It shall be unlawful for the County Supervisor, County Board of Commissioners, or any member thereof, to create, by act, express or implied, any obligation against the County which, with the obligation then existing and chargeable against any particular item of appropriation, shall exceed the amount specifically appropriated therefor: *Provided*, in case of emergency, with the written consent of the County Board of Commissioners, this requirement may be dispensed with. If the County Supervisor, County Board of Commissioners, or any member thereof violate the provisions of the Act next preceding, in this Section, the claim resulting therefrom shall be declared null and void as against the County, and the officer offending shall be held responsible to the claimant therefor upon his official bond. It is hereby made the duty of the County Supervisor and County Board of Commissioners to so apportion the appropriation for maintenance of convicts and road working organization and for appropriation for dispensary constables as to cover the several expenses on account of these items for the entire year for which they may be respectively appropriated.

1033. The County Supervisor shall state upon each warrant drawn by him upon the County Treasurer the item to which the appropriation in the County Supply Act on account of which it shall have been drawn; he shall also, in a tabular form upon said warrant, state the amount of such appropriation, the amount theretofore drawn against it, the amount of the warrant then drawn and the balance against which future warrants may be drawn. No warrant shall be drawn by the County Treasurer or be allowed as a credit to his settlement unless it conform with this require-

Warrant to
show fund on
which drawn

1034. That whenever the appropriation for any item of county expenses, as provided in the County Supply Act of any year, shall have been exhausted by warrants drawn by the County Supervisor upon the County Treasurer, the payment of further claims chargeable to the account of such item shall be immediately suspended. Such claims in excess of the appropriation, after having been audited, shall not be paid and entered upon the book of "Classification of

When fund
are exhausted
payments to
be stopped.

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Annual settlement.

Claims Allowed," for the year to which they belong, ~~shall~~ be transferred in red ink to the same book for the succeeding year; numbered with the claims for that year; the number endorsed upon said claims in red ink; the amounts distributed in the item column for past indebtedness; and in the column headed "Nature of Claim," shall be entered, "Past Indebtedness of 19.., No...." Upon the book from which the claim shall have been transferred, opposite the claim, shall be noted, "Transferred to 19.., No...." In the County Supply Act for the succeeding year these claims shall be provided for by an appropriation in the item "Past Indebtedness Claims," wherein they shall be classified by numbers, nature and amount. A certified schedule of these claims, itemized and classified, shall be furnished by the County Supervisor of the County delegation during the first week in January of every year. At the annual settlement with the Comptroller-General all cash balances to the credit of the revenue of the County for all County purposes, and all uncollected assets, for the fiscal year to which said past indebtedness claims belong, shall be passed to credit of the revenue of the county for all county purposes for the fiscal year to which said past indebtedness claims shall have been transferred, to the extent of the amount of the same and of any other indebtedness of the preceding year provided for in the budget for the succeeding year; the balance, if any, shall be deposited by the County Treasurer in some reliable savings institution, at interest, for the purpose of accumulating a fund with which to put the County upon a cash basis: *Provided*, That this Section shall not apply to obligations incurred in violation of Section 1032, but is intended to apply only to such obligations of the County as are not within the control of the County Supervisor or County Board of Commissioners.

Disposition of certain income.

Sec. 1035. All income to the County from fines, fees, costs, licenses, commutation road tax, Register of Mesne Conveyances' office, and from all other sources, not otherwise appropriated by law, shall be paid to the County Treasurer and be applicable to all claims for the payment of which the appropriations for the year on account of county expenses shall have been made.

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1036. The County Treasurer is authorized and specifically directed, on January 1st of every year, to pay upon warrant of the County Supervisor the item on account of loan from State Sinking Fund Commission out of any money on hand at December 31st, preceding, derived from any source of County income, whether there be sufficient money on hand at that time applicable to this specific item or not, it being intended that this item be preferred to all other items of County expenses so as to make January 1st the date of annual settlement with the Sinking Fund Commission.

Loans from
State Sinking
Fund.

1037. It shall be the duty of the County Auditor, before the 10th day of each and every month, to per-
County Auditor to examine books.
examine the several books herein prescribed for the County Supervisor and County Treasurer, such inspection including the transactions for the preceding month, and to verify the same by actual count of cash and certificates of deposit, as reported on hand by the County Treasurer. If upon such inspection he shall find that they are correct, and conform with the requirements of Sections 1019 to 1039 inclusive, he shall endorse upon each one so found the words "Approved," and sign and date the same; and he shall report to the grand jury at its next session any delinquency or failure upon the part of either of said officers to conform with the requirements of Sections 1019 to Section 1039 inclusive.

1038. In the annual settlements with the County Treasurer, supervised by the Comptroller-General, the County Auditor shall make up a full statement of the receipts and disbursements of County taxes and other income for the fiscal year ending December 31st preceding. Each year, beginning January 1st and ending December 31st, shall be kept separate and distinct at whatever time of the year said settlement may be made.

Annual
statement.

1039. The County Auditor shall keep a book called "Fines and Licenses," in which shall be entered all fines, costs, and licenses reported to him as having been collected by the Clerk of the Court and Magistrates of the County. To this end it is hereby made the duty of the Clerk of the Court and of the Magistrates in Greenville County, on or before the first ten days of each of the months of January,

Fines and
License Book.

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April, July and October, to present to the County Auditor their books showing the collections made by them during the preceding quarter on account of fines, fees, costs and licenses, from which the Auditor shall enter upon his books the several items of collection. He shall thereupon check up the same with the County Treasurer's Daily Cash Receipts Book. The County Auditor, after the expiration of the ten days hereinbefore fixed for such reports, shall mail a notice to the officer failing to comply with this Section, requiring him within three days thereafter to submit his books as herein provided; and upon his failure to do so, the said officer shall be reported by the County Auditor to the grand jury at the next session thereafter for such action as the Court may deem proper.

HAMPTON COUNTY.

Further duties Supervisor and County Commissioners.

1908, XXV, 1177.

Salary of legal adviser of Hampton County.

1908, XXV, 1207.

Clerk Board of County Commissioners.

County Physicians.

Work on bridges not to be let out by contract.

Sec. 1040. The said Supervisor and County Commissioners shall have general supervision over all roads, poorhouse farms and the financial affairs of said County, and shall perform all duties now required of Supervisors and County Commissioners by the general laws of the State.

Sec. 1041. That the salary of the legal advisers for the Board of County Commissioners of Hampton County shall not exceed one hundred dollars per annum.

Sec. 1042. The salary of the Clerk of the Board of County Commissioners of Hampton County shall not exceed one hundred and fifty dollars.

Sec. 1043. The County Commissioners shall have the power to employ such physicians, as they may deem proper, to do the medical practice for the inmates of the poorhouse, the jail, and the convicts on the chaingang of said County, and shall use their discretion in paying for the same: *Provided*, That the amount paid for such purpose shall not exceed the sum of two hundred and fifty dollars for all medical services and medicine.

Sec. 1044. The County Commissioners shall not have power to let out by contract the repairing or building of any bridge which can be repaired or built by a chaingang force, and all material used in small bridges shall be of the best lightwood, or cypress, hewn by the convicts on the chaingang, when the same may be practicable.

A. D. 191

045. The County Commissioners shall make an estimate at the beginning of each month of the amount for feeding and clothing the convicts in their custody together with all necessaries for the chaingang, and for the poorhouse and the poor, for the ensuing month, and give the same out by contract to the lowest bidder, as may be possible.

Monthly estimates to be made.

046. The County Commissioners shall at the end of each month file with the Clerk of the Court of said County an itemized sworn statement in writing of all expenditures for the chaingang, and for the poorhouse farm and the poor, showing every item and its cost, and from where purchased, which statement shall at all times be open to the inspection of the public.

Sworn statements of expenditures to be filed.

047. The County Commissioners shall be held responsible for any extravagance or waste, and for the prices paid for any article in excess of the lowest prices.

Commissioners responsible for waste.

048. The throwing up of sand in high sandy roads and the mixing clay with the sand is hereby prohibited.

Throwing sand in roads prohibited.

Repeal of last eight Sections, see Criminal Code, Section 585.

ORANGEBURG COUNTY.

049. The County Supervisor shall have the duties and powers the same as now exercised by him, and provided the same are hereinafter limited or enlarged. He shall attend to the courthouse, and shall attend thereon at least once in each week, and shall appoint and have compensation to be hereinafter provided. He shall call the meetings of the County Board of Commissioners, and the clerk shall act as secretary thereto. He shall settle all claims presented against the County, and lay the same to the County Board, with recommendation. He shall let contracts for all bridges or other works not within the jurisdiction of the Towns, and shall advise with them regarding their jurisdiction as often as may be necessary to advertise for bids on any contracts where the amount exceeds one hundred dollars. He shall personally inspect all contracts and shall vouch for claims and no claim shall be valid for payment until approved by the County Board of Commissioners.

Duties and powers of County Supervisor.

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Further duties.

Sec. 1050. The County Supervisor shall have charge of the County farm, and of the chaingang, and all equipment, and shall distribute its benefits among the various Townships as impartially as possible, and shall appoint an overseer or overseers and guards therefor; and shall appoint such help as may be necessary at the County farm; but their compensation shall be fixed by the County Board of Commissioners. He shall publish an annual report of the operations of the chaingang, showing the expenses of the same, the number of days of work actually done by the convicts, and the average daily cost of same, and the number of miles of road constructed or repaired in each Township, and the value of mules, machinery and equipment of the chaingang outfit. And shall publish annually during the month of December a statement of the cost of running the County farm and the assets realized therefrom. He shall inspect the public roads and bridges of the County, and shall consult and advise with the Township Commissioners as to the maintenance and improvement thereof. And should a difference or disagreement arise between the Supervisor and a Township Commissioner regarding any work, contract or method within the jurisdiction of the Township Commissioner in such Township, the matter may be taken before the County Board of Commissioners for settlement. He shall ascertain, either by measurements or reliable records, the exact number of miles of public roads in each Township, and shall have the boundaries of the Townships plainly marked on each public road, and have mile posts erected along the same as soon as practicable, showing the distance from the courthouse, or from some other center of travel on the roads not leading to the County seat. He shall annually apportion the County road fund, which shall not exceed one-third of the levy for ordinary County purposes, among the various Townships of the County in proportion to the number of miles of public road in each Township, the same as apportioned to be expended by the Township Commissioners as hereinafter provided, and he shall keep a book of the County road funds by Townships in like manner as the County Superintendent of Education keeps account of school funds by districts, and this book shall be a record of his office accessible to the public. And any portion of said road

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the courthouse, in addition to their compensation for; and shall not be paid additional for an adjourned meeting of the said Board. It shall be the duty of each Township Commissioner to secure a list of commutation taxpayers furnished by the County Treasurer; and he shall report to the Supervisor the names of all persons in the Township who are liable for payment of commutation tax and have not paid the same. It shall be the duty of the Township Commissioners to swear out warrants against those who have failed to comply with the law regarding the payment of commutation tax. The Township road funds shall comprise the amount apportioned by the Supervisor to each Township for said Township, and any special appropriation for improvement.

Each of the Township Commissioners shall have control over the Township road fund in his Township, and shall expend the same for the maintenance and repair of the public roads in his Township, and for the construction or repair of such bridges as do not exceed a certain amount in cost; and shall consult and advise the Supervisor in regard thereto as often as may be required. He shall let contracts and personally inspect the work under his jurisdiction, and shall attest to the correctness of every claim against his Township road fund. No claim shall be submitted to the County Board of Commissioners without the approval and become valid for payment until it has been approved by the County Board. He shall not expend more than the amount apportioned to his Township in any year.

It shall be unlawful to approve any claim or warrant in payment therefor in excess of the amount on the credit of any Township or fund aforesaid.

SPARTANBURG AND UNION COUNTIES.

The County government for Spartanburg and Union Counties shall be administered by a Supervisor and a Board of Commissioners, known as the County Board of Commissioners, consisting of one member from each Township, to be elected annually by the people as Township Commissioners.

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8. The County Supervisor shall examine all contracts against the County and shall submit the same to the Board of Commissioners with his recommendation thereon. In Spartanburg County the Supervisor, and in Union County, the Board of Commissioners, shall let contracts for bridges and other public work, and shall publicly receive bids where the amount likely to be paid is over fifty dollars, and shall personally inspect the work done under the contracts, and claims for such work shall not be valid until approved by a majority of the Board of Commissioners.

Election and
duties of
Supervisor.

9. In Spartanburg County the Supervisor shall manage the chain-gang and shall distribute its benefits among the various Townships as impartially as possible. He shall appoint the necessary guards therefor, but their compensation shall be fixed by the County Board of Commissioners. He shall publish an annual report of the operation of the chain-gang, showing the expense of the same, the number of days work done by the convicts, and the total value of the work, and the value of the mules, machinery and outfit of the chain-gang outfit.

Duties in
Spartanburg
County.

10. In Union County the Board of Commissioners shall have charge of the chain-gang and all other business of a similar character, such as letting bridges; election of a poorhouse; purchasing machinery, mules, supplies, etc.

Duties of
County Com-
missioners of
Union Coun-
ty.

11. The Governor shall appoint and commission, on the recommendation of the Legislative Delegation, one member from each Township of Spartanburg and Union Counties, known as the Township Commissioners, who shall give a bond of five hundred dollars for the faithful performance of their official duties. These, together with the Supervisor, shall constitute the County Board of Commissioners, which shall pass upon all claims made out against the County and shall have power to reduce or reject any claim that may be deemed illegal or unjust.

Township
Commission-
ers.

12. The County Board of Commissioners in Spartanburg and Union Counties shall have power to borrow money for the use of the County, and in Spartanburg County the Supervisor shall execute the loan, and in Union County the Supervisor shall execute the loan by signing and the County Treasurer by countersigning by virtue of a reso-

Powers of
Board.

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Board, and no loan shall be made by him of such a resolution: *Provided*, That in any event they shall make no obligation except as authorized by special Act.

Each Township Commissioner in Spartanburg and Union Counties shall receive for his services seven dollars a day for not exceeding seventy days actually rendered in such year, his claims to be itemized and verified and approved by the County Auditor.

It shall be the duty of the Township Commissioner in Spartanburg and Union Counties to ascertain the names of all persons living in his Township who are liable for road duty and to file with the County Superintendent a list of the same. The County Superintendent shall compare this list with the commutation tax list as filed by the County Treasurer, and shall report back to the Township Commissioners not later than April first of each year in Spartanburg County and the first day of June in Union County the names of all persons in his Township who are liable for commutation tax and are liable for road duty. Each Township Commissioner shall supervise the work of the road hands at such time or times as he thinks proper for the public service, and shall work them upon the roads not more than three days each year.

It shall be the duty of the Township Commissioner in Spartanburg and Union Counties to swear out warrants before the County Sheriff against persons who shall fail or refuse to perform their duty after being summoned thereto.

The Township road fund in said Counties shall consist of: (a) the sum apportioned by the County Commissioners to each Township; (b) the commutation tax for said Township; (c) any special local taxes levied by Township for improvement.

In Spartanburg County each Township Commissioner shall have jurisdiction and control over the Township road fund for his Township, and shall spend the same for the maintenance and improvement of the public roads, and for the construction or repair of bridges, the cost shall not cost more than fifty dollars. He shall inspect all work done under his jurisdiction,

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All Township Commissioners must be sworn in immediately after their appointments, and all orders, resolutions, and contracts made under their orders, or otherwise, must be countersigned by them, and attested by them, and filed with the County Board of Commissioners for his investigation, and subject to the County Board of Commissioners.

In Union County on the last Friday of January at the election of the County Supervisor and the Township Commissioners, there shall be a meeting of the County Supervisor and the Township Commissioners; on the last Friday in each month thereafter there shall be a call for the approval or disapproval of all contracts made and filed with the Supervisor, and at such call of the Supervisor for the transaction of business as may be necessary.

In Union County the Supervisor shall keep his office open for business at least one day in each week, except Sunday; and he shall reside in the County.

WILLIAMSBURG COUNTY.

The offices of County Supervisor and County Commissioners of Williamsburg County are abolished.

In the same manner as is now provided by law for the appointment of County Auditor and County Treasurer, there shall be appointed a County Commissioner for Williamsburg County, whose term of office shall be for one year, until his successor is elected and qualified, and he shall be subject to suspension and removal in the same manner as in the same causes as is now provided by law for the suspension and removal of County Auditor and County Treasurer. With respect to such appointment, suspension, and removal, the Governor and the Senate are hereby authorized to exercise all the duties, powers and authority they may have in relation to the County Auditor and County Treasurer.

The said County Commissioner before entering upon the discharge of the duties of his office shall take the same official oath required of all officers and shall be approved in the same manner as the County Auditor, and shall give bond of County Auditor, in the sum of \$10,000, for the faithful performance of the duties of his office.

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qualified, and said Commissioner shall be removed in the same manner and for the same cause as provided by law for the removal of County Treasurers.

The said District Commissioners shall, before the discharge of the duties of said office, take the oath required of all officers, and shall

be bonded in some reputable surety company, to the Clerk of the Court of Common Pleas of said County of Fairfield County, in the sum of \$10,000, for the faithful performance of the duties of said office, which said bonds shall upon their execution be filed with the Clerk of the Court of said County. Said bonds shall be paid by the County.

The said Board of County Commissioners shall be authorized and invested with all the powers, authorities and duties of the County Commissioners of said County, except as is herein otherwise expressly provided, and shall be subject to the same penalties and punishments, as is provided for said County Commissioners.

The said County Board of Commissioners shall employ a Clerk who shall be an expert bookkeeper, and shall keep the books and accounts of said Board by a double entry system. That said Clerk shall reside at the County Seat. The salary of said Clerk shall be three hundred dollars per annum.

All claims against the County shall be itemized and sworn to, that said Clerk shall keep a record of any claim against said County. He shall enter the same in a book, which he shall keep, which shall show the number of the claim, the date, description of the claim, the name of the claimant, the amount of the claim, the amount allowed, and the date of payment.

The said Commissioners shall, at the end of each year, insert in a newspaper, published in said County, a notice requiring all persons holding claims against the County to present the same duly verified to said Commissioners within three months from the date of said notice.

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ARTICLE II.

THE SHERIFF.

Sec.

- 1088. Election of Sheriff; when held.
- 1089. Vacancy; how filled.
- 1090. Coroner to act as Sheriff during a vacancy.
- 1091. Clerk to act until Coroner takes charge of vacancy filled.
- 1092. Coroner to act when Sheriff is a party.
- 1093. Sheriff to file his bond; when and where.
- 1094. Amount of bond.
- 1095. Sureties liable immediately and absolutely; when.
- 1096. To qualify before assuming office; how.
- 1097. No Sheriff or his deputy or clerk to practice law or act as Clerk of Court.
- 1098. Deputies; how appointed and confirmed; tenure of office; bond; responsibility of Sheriff for.
- 1099. Deputy to take oath of office; duties of.
- 1100. Special deputies; how and when appointed; Sheriff responsible for.
- 1101. To appoint peace officers in industrial communities, etc.
- 1102. Powers and duties of such officers.
- 1103. Bond of such officers. Responsibility for misconduct.
- 1104. Who responsible for malfeasance.
- 1105. Provisions applicable to communities of fifty persons or more.
- 1106. Sheriff may appoint deputy for Fair Association.
- 1107. Duties and powers of deputy.
- 1108. Bond.
- 1109. Sheriff not responsible for malfeasance.
- 1110. Deputy for parks.
- 1111. Powers of such deputy.
- 1112. Offices; where kept.
- 1113. Books to be kept; requirements as to; how papers to be arranged.
- 1114. To turn over furniture, books and papers to successor; penalty.

Sec.

- 1115. To pay to successor money due as Sheriff; within what time.
- 1116. Commissions on such money; how divided.
- 1117. Penalty for failure to pay over.
- 1118. Personal representatives of deceased Sheriff; when to pay over; penalty.
- 1119. Must summon Constables to attend Court, etc.
- 1120. Sheriff to appoint Bailiffs.
- 1121. To attend Circuit Courts; duties in connection therewith.
- 1122. To serve all processes issued by competent authority; penalty on default.
- 1123. Liability for illegal arrest.
- 1124. Arrest; privilege from; exception.
- 1125. No process to be served on Sunday; exceptions; females not subject to arrest in civil actions.
- 1126. Escaped prisoners may be retaken on Sunday and anywhere.
- 1127. Sheriff's duty as to arrest and bail in civil actions.
- 1128. Not to take attorney-at-law or officer of Court as bail.
- 1129. May break into any house in certain cases.
- 1130. Must give notice of money collected; when, how and whom; penalty.
- 1131. Not liable to rule, etc., after two years from end of term.
- 1132. Open contempt of breach of duty; proceedings.
- 1133. Liability for failure to execute final process or pay over money.
- 1134. To pay over money one day after demand; penalty for refusal; proviso.
- 1135. Must furnish statement of reasons for failure to make execution when required.
- 1136. Penalty for purchasing judgment or execution.
- 1137. Penalty for permitting prisoners committed by civil process to go at large; proviso.

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plaintiff liable for
intenance of debtor in
; when prisoner may be
charged, etc.
igent escape; measure of
damages for.
ility for escape of crimi-
als.
phases at their own sales
ld.
y to apply proceeds of sale
real estate.
y make title to property
ld by predecessor.
y make judicial sales; ex-
ptions; fees on.
ection of money; how
ntered.
nthly statement to Audi-
or and Treasurer of fines,
ce.
arrest escaped convicts.
receipt for tax executions.
pay County Treasurer
axes collected.
turn of uncollected tax ex-
cutions.
nalty for failure to return
ax executions.
nalty for false return on
ax executions.

- Sec.
- 1153. Penalties to be recovered by
Sinking Fund Commission-
ers.
 - 1154. Penalties cumulative.
 - 1155. Special police for certain por-
tions of Charleston County.
 - 1156. Duties and powers.
 - 1157. Bond.
 - 1158. Salary police of Aiken, Lau-
rens and Richland Counties.
 - 1159. County policemen for Aiken
County.
 - 1160. Rural policemen for Laurens
County.
 - 1161. County police for Richland
County; compensation.
 - 1162. Duties of policemen.
 - 1163. Further duties.
 - 1164. Authority of policemen.
 - 1165. Oath of office.
 - 1166. Additional oath in Aiken
County.
 - 1167. Additional oath in Laurens
County.
 - 1168. Additional oath for Richland
County.
 - 1169. Compensation in Aiken Coun-
ty; policemen for Schultz
Township; policemen to
serve no civil process.

on 1088. There shall be an election for Sheriff held Election of
County, except in the Counties of Berkeley, Chero- Sheriff; when
d Hampton, at the general election in 1904, and on held.
ne day in every fourth year thereafter. In the Coun- Civ. '02, 1
cepted the election shall be in 1902. 820.

v. Cockrell, 2 Rich., 8.

1089. In the event that a vacancy shall, at any time, Vacancies
in the office of Sheriff in any County of this State, how filled.
er from death, resignation, disqualification, or other Civ. '02,
t I have full power to appoint some 821.
le I be an elector of such County, and
g, according to law, shall be enti-
ld the office until the next general
riffs, and shall be subject to all of
incident to said officer, during the
d office.

1090. THE GOVERNOR, during the continuance of such
cy, and until the office is filled by appointment or elec-

all assume the office, discharge its duties, incur expenses, and be entitled to its fees and emoluments; for such purpose, take charge of the books and papers in the office, and occupy the apartment allowed to the Sheriff in conducting the business of his office.

1001. In case of vacancy in the office of Sheriff, the Coroner for such County may take charge of the office until a Sheriff shall be elected and commissioned. In such County, the Clerk of the Court for such County may take possession of the jail of such County, and charge the prisoners confined therein, and, also, possess the Sheriff's office, and the papers therein.

1002. If the Sheriff shall be a party plaintiff or defendant in any judicial process, execution, warrant, summons, or notice to be served or executed within his County, the Coroner shall serve the same, and incur the liability of a Sheriff.

1003. When any person shall be declared ineligible for the office of Sheriff, he shall be bound to file in the office of the State Treasurer his bond, duly executed and approved, within thirty days from the time he receives notice that the election is declared.

1004. The Sheriff of the several Counties, before receiving their commissions, shall enter into bonds to be approved by the County Commissioners, and any number of sureties, not exceeding five, or less than two, to be approved by a majority of the Board of County Commissioners, in the sum of ten thousand dollars; except in the County of Calhoun, where the bond of the Sheriff shall be in the sum of four thousand dollars; and except in the County of Charleston, where the bond of the Sheriff shall be in the sum of twenty-five thousand dollars; and in the Counties of Spartanburg and York, in each of which the bond of the Sheriff shall be in the sum of four thousand dollars; and in the County of Horry, the bond shall be four thousand dollars; and in the Counties of Marion and Saluda, where it shall be six thousand dollars; and in the County of Abbeville, where it shall be seven thousand dollars. And every Sheriff shall procure other security when duly required.

1005. The return of *nulla bona* on any execution shall not be necessary before legal resort may be had to the Sheriff's office.

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neglect of duty or misconduct in office of

or execution levied by constable not a regular deputy is void. *Evans*, 75 S. C., 252; 55 S. E., 309.

Every such deputy shall, previous to entering upon the duties of his appointment, take an oath or affirmation before the Judge of the County in which he is appointed, and the oath shall be taken by the Constitution of the State, faithful to the duties of his appointment, and the oath shall be taken by the Judge, and the oath to enforce the law against all persons, and when so qualified he may perform any and all duties appertaining to the office of his principal.

The Sheriff, without seeking the approval of the Judge, may appoint special deputies, as the business may require, for the service of the County in civil and criminal proceedings only; and for the same he shall be responsible.

See, 2 McC., 114; *Jentry v. Hunt*, 2 McC., 410; *May v. Hunt*, 2 McC., 10; *Chiles v. Holloway*, 4 McC., 164; *Singletary v. Cartwright*, 2 Hill., 647; *Ex parte Hanks*, *Chaves*, 14 S. C., 241.

Upon a written statement of the President or other executive officer having the management of an industrial corporation located in any County of this State, setting forth that in his opinion the interests of the community and locality under their management require special police supervision, and that in the said County there are one or more inhabitants are comprised, and directed by the Sheriff of the said County, it shall thereupon be the duty of said Sheriff to appoint a discreet and suitable deputy and one satisfactory to the President or other executive officer of said corporation, whose term of office shall expire at the pleasure of the Sheriff, unless sooner by him removed. All such deputies shall reside within the community and upon the premises of the corporation whose protection he is appointed, and whose salary shall be paid by the corporation at the instance of the President or Treasurer or other executive officer making the appointment, whose term of office shall be fixed by contract with said corporation, acting as President or Treasurer or other executive officer, and whose jurisdiction as its officer shall extend over the

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Sec. 1105. The provisions of the last three sections shall apply to any such industrial communities as are comprised of fifty persons or more, whether such persons are permanent or temporary inhabitants thereof.

Sheriff may
appoint deputy
for any
fair association.

1908, XXV,
1152; 1910,
XXVI, 768.

Sec. 1106. Upon a written statement of the president or treasurer or other executive officer having the management of any fair association, amusement company, circus, political meeting, camp meeting, or other such concern, located or to be located in any County in this State, setting forth that in his opinion the interests of the association, amusement company, circus, political meeting, camp meeting, or other such concern under his management and the public peace require special police supervision and directed to the Sheriff of said County, it shall thereupon be the duty of the said Sheriff to appoint such discreet and suitable person or persons as his deputy or deputies, whose term of office shall continue during the public exhibition of such association, amusement company, circus, political meeting, camp meeting, or other such concern, unless sooner by him removed. The salary of such deputy sheriff or deputy sheriffs shall be paid by the association, amusement company, political meeting, camp meeting, or other such concern requesting such appointment. The jurisdiction of such deputy sheriff shall extend over the property controlled by such association, amusement company, circus, political meeting, camp meeting, or other such concern. Before entering upon the duties of his office the said deputy shall take the oath prescribed by the Constitution and statutes of this State: *Provided*, That nothing herein contained shall interfere with the right and duty of a Sheriff, upon his own motion, to appoint such deputy or deputies as may seem advisable.

Duties and
powers of
deputy.

1908, XXV,
1153.

Sec. 1107. The said Deputy Sheriff shall have and exercise all the rights, duties and powers prescribed by law for Deputy Sheriffs or Constables and such powers as are usually exercised by Marshals and Policemen of towns and cities, and shall also act as a conservator of the peace; shall take into custody and carry before the nearest Magistrate any person who may, in his view, engage in riotous conduct or violation of the peace and refusing upon his command to desist therefrom; and shall also arrest any person who may, in his view, commit any felony or misdemeanor and

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other executive officer of said park, or place, whenever the said President or Treasurer, or other executive officer, shall make a statement in writing to the Board of said County, stating that the said Deputy Sheriff is discharging his duties to the satisfaction of said President or Treasurer, or other executive officer, and requesting his appointment.

1. The said police officer, or Deputy Sheriff, shall and exercise all the rights, duties and powers now by law for Constables or Magistrates, and such powers as are usually exercised by Marshals and Policemen in cities, and shall also act as a conservator of the peace. He shall take into custody and carry before the nearest Justice of the Peace any person who may in his view engage in a riot or violation of the peace, and refusing upon demand to desist therefrom; and shall also arrest any person who may in his view commit any felony or misdemeanor, and bring him before a Court of competent jurisdiction to execute any and all criminal process from Magistrates, Justices of the Peace, and shall have the power to call to his aid any *deputatus* to assist him in the discharge of his duties. Any person refusing to obey his summons shall be liable to arrest and prosecution as for a misdemeanor.

2. The Sheriffs of the several Counties throughout the State shall keep their several offices in the same place, or place where the respective courthouses are located, and in the courthouse, if there be one.

Walker, 5 B. C., 563.

3. The Sheriff of every County shall keep in his office the following separate books, each bound in good material and strongly bound, each containing not less than eight quires of medium paper, and labeled with appropriate title, to wit:

"Writ Book," in which the Sheriff, immediately upon the return of any writ of *habeas corpus*, citation, writ of *certiorari*, writ of *ad respondendum*, summons, subpoena writ, subpoena return, writ of *ne exeat*, injunction, attachment, or any other mesne process whatever, from either of the Circuit or Probate Courts, shall make entry thereof, with the date, and endorse on

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columns, in which the Sheriff shall enter the names of the parties, a description of the property sold, when sold, to whom sold, amount of sale, and, if bond be taken, the names of the sureties thereto, and statement of the time when due, and to what case or cases the proceeds of such sale have been applied, or to whom paid; and the Sheriff shall make and keep correct and double indexes in the said book of the cases entered therein. The Sheriff shall keep the mesne and final processes in his office, in suitable boxes, and in separate apartments. Final process shall be arranged alphabetically in the defendants' names, in boxes labelled with appropriate letters. The miscellaneous papers shall be arranged under suitable titles and labels, such as "Attachment Bonds," "Bail Bonds," "Bonds for the delivery of property," "Money Bonds," &c.

State v. Commissioners, 2 Strob., 149; Daniel v. Harley, 3 Strob., 231
Taylor v. Easterling, 1 Rich., 310; Elfe v. Gadsden, 1 Strob., 225.

To turn over
furniture,
books and pa-
pers to suc-
cessor; penal-
ty.

Civ. '02, §
888.

Sec. 1114. It shall be the duty of every Sheriff, and, if he be dead, of his personal representatives, to turn over to his successor all the furniture appertaining to his office, the original Writ Book and Sale Book, and also the original Execution Book, or a correct certified copy thereof, and also all original bonds officially taken by him, all mesne processes not served, and all final processes partially or wholly unexecuted. Such successor shall be bound to execute a receipt, and a duplicate to be lodged in the Clerk's office, specifying the matters and things so received by him, and shall be responsible for them. And it shall be the duty of such predecessor who has levied upon personal property and not sold it to deliver it to his successor at the time of turning over such books, bonds, and processes, taking his receipt for the same, and his successor is authorized to sell such property.

Osborne v. Huger, 1 Bay., 179; State v. Kennedy, 5 Strob., 160.

To pay to
successor
moneys due as
Sheriff: with-
in what time.

Civ. '02, §
889.

Sec. 1115. Each Sheriff, on the expiration of his term of office, must turn over to his successor all moneys remaining in his hands as Sheriff, within one month from the time his successor shall have entered on the duties of his office, in the same manner as he is required to turn over to his successor the furniture, books, bonds, processes and other papers; and his successor shall receive and be responsible for the money

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To attend all
Courts, and to
serve rules of
Court.

Civ. '02, §
844.

Duties and
liabilities.

Civ. '02, §
845.

Sec. 1121. The Sheriffs, or their lawful deputies, shall attend all the Circuit Courts that may be held within the respective Counties, and enforce such rules as the said Courts may establish; and during the term time of the said Courts, any Sheriff or his deputy shall serve any rule of said Court or writ of attachment, for any contempt thereof, of any party or witness in any part of this State; and the party moving for the same shall be liable to pay said Sheriff the costs in cash for such service, on the return of such rule or writ of attachment.

Sec. 1122. The Sheriff, or his regular deputy, on the delivery thereof to him, shall serve, execute, and return every process, rule, order or notice, issued by any Court of record in this State, or by other competent authority; and if the Sheriff shall make default herein, he shall be subject to rule and attachment as for a contempt, and he shall also be liable to the party injured, in a civil action.

Service of Process.—*Osborne v. Huger*, 1 Bay, 179; *Stewart & Co. v. Childs*, 1 Bay, 362; *Shoolbred v. Posel*, 2 Brev., 201; *Grimke v. Mayrant*, 1 Brev., 202; *May v. Walters*, 2 McC., 470; *Miller v. Hall*, 1 Speer, 1; *Richardson v. Croft*, 1 Ball., 264; *McWorter v. Reid*, 1 Hill, 368; *Solomon v. Richardson*, 1 Hill, 806; *Wood v. Crosby*, 2 Hill, 520; *Moore v. Byne*, 1 Rich., 94; *Wallace v. Prince*, 3 Rich., 177; *Ervin v. Scott*, 15 Rich., 12.

Execution of.—*State v. Thackham*, 1 Bay, 358; *Greenwood v. Colcock*, 2 Bay, 67; *Cholett v. Hart*, 2 Bay, 156; *Commissioner v. Hart*, 1 Brev., 422; *Ross v. McCartari*, 1 Brev., 507; *Treasurer v. Forde*, 1 N. & McC., 234; *Walton v. Deignan*, 2 N. & McC., 248; *Graham v. Allen*, 2 N. & McC., 492; *Rochelle v. Campbell*, 1 McC. Ch., 58; *DeGraffenreid v. Mitchell*, 3 McC., 506; *Wilks v. Hasket*, Harp., 490; *Perry v. Williams*, 1 Ball., 10; *Steedman v. Keith*, 1 Ball., 476; *Ex parte Black*, 2 Ball., 8; *Graham v. Durant*, 2 Hill, 517; *Thomas v. Altkin*, Dud., 202; *Johnson v. McIlwain*, Rice, 368; *Cable v. Hoke*, 1 Speer, 168; *Broughton v. Broughton*, 4 Rich., 491; *Bachman v. Sulzbacher*, 5 S. C., 58; *State v. Moseley*, 10 S. C., 1; *State v. Gilreath*, 16 S. C., 106; *Bragg v. Thompson*, 19 S. C., 577; *Goodgion v. Gilreath*, 22 S. C., 388; 11 S. E., 207; *Rogers v. Marlboro Co.*, 32 S. C., 556; 11 S. E., 883; *Burnett v. Gentry*, 32 S. C., 597; 11 S. E., 96.

Return of.—*Huger v. Sheriff*, 1 Bay, 319; *Wilder v. Grimke*, 2 Brev., 261; *Belser v. Graves*, 1 N. & McC., 125; *City Council v. Price*, 1 McC., 239; *Ford v. DeVillers*, 2 McC., 144; *Mathewson v. Moore*, 2 McC., 315; *Walton v. Parsons*, 4 McC., 368; *Mills v. Kennedy*, 1 Ball., 17; *Saunders v. Bobo*, 2 Ball., 492; *Saunders v. Hughes*, 2 Ball., 505; *Jeannerett v. Redford*, Rich. Eq. Ca., 409; *State v. Wylle*, 2 McM., 1; *Treasurer v. Hilliard*, 8 Rich., 412; *Farrar v. Barnes*, 12 Rich., 224; *Dawson v. Dewan*, 12 Rich., 499; *Dancroft v. Sinclair*, 12 Rich., 617; *Bank v. Kinard*, 28 S. C., 101; 5 S. E., 464.

Liability for
illegal arrest.

Civ. '02, §
846.

Sec. 1123. If any Sheriff, or Deputy Sheriff, without writ, warrant, or process, shall summon any one, by arresting the person or attaching the goods to appear in any of the Courts of this State, (not having at that time any process to justify the same,) upon complaint thereof, on oath.

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554; Dickinson v. Coward, 8 Rich., 49; Rosenberg v. McKain, 3 Rich., 11; Bennet v. Brown, 1 Strob., 803; Meyers v. Centre, 2 Strob., 439; v. Yongue, 3 Strob., 538; Bennet v. Brown, 5 Rich., 347; Ervin v. Rich., 12; Ware v. Miller, 9 S. C., 13.

Custody.—Smith v. Hart, 2 Bay, 395; McLain v. Hayne, 3 Br. Prather v. Clark, 3 Brev., 393; Yates v. Yeaden, 4 McC., 18; Boyce v. Dale, 4 McC., 141; Baker v. DeLieselline, 4 McC., 372; Walton v. C. McC., 501; Harvey v. Huggins, 2 Bail., 252; Treasurer v. McDowell, 184; Aiken v. Moore, 1 Hill, 432; Thomason v. Kerr, 2 McM., 346; v. Brian, 1 Speer, 131; Berry v. Hoke, 1 Rich., 76; Kelsey v. Rosko, Rich., 241; Hyams v. Michel, 3 Rich., 303; Cook v. Irving, 4 Strob., 184; Menude v. Butler, 5 Rich., 440; State v. Halford, 6 Rich., 58; Robertson, 6 Rich., 228; State v. Sellers, 7 Rich., 368; Conyers v. 11 Rich., 60; Farrar v. Barnes, 12 Rich., 224.

Not to take attorney at law or officer of Court as bail.

Sec. 1128. No Sheriff shall take any attorney-at-law or officer of Court as bail for any person whomsoever in any civil or criminal case.

Civ. '02, § 11.

May break into any house in certain cases.

Sec. 1129. It shall be lawful for the Sheriff or his deputy to break and enter any house, (after request and refusal) to arrest the person or to seize the goods of any one in such house, provided such Sheriff or his deputy have probable cause requiring him to arrest such person or seize such goods.

Civ. '02, § 2.

State v. Thackham, 1 Bay, 358; Rowe v. Cockrell, Bail. Eq., 126; Straits, Dud., 19. But one who officiously accompanied a deputy, and without his command, forcibly entered and took property, is a trespasser, without justification.—McElhenny v. Wylie, 3 Strob., 284.

Just give notice of money collected; when, how and to whom; penalty.

Sec. 1130. The Sheriff, on the receipt of any money on account of any plaintiff in execution, or other person entitled thereto, must, within one month, give notice in writing of the same to such plaintiff or his attorney, or to the person entitled thereto, by personal service or by mail. In case of failure to do so he shall be liable to pay interest on the money in his hands at the rate of five per cent. per annum until notice is given.

Civ. '02, § 8.

Not liable to be served with rule, etc., after two years from end of term.

Sec. 1131. No Sheriff shall be liable to be served with any rule to show cause, or attachment, at any time after two years from the expiration of his office.

Civ. '02, § 4.

Open contempt or breach of official duty; proceedings.

Sec. 1132. Any Sheriff shall be liable to be proceeded against in any Court of record in this State for an act of contempt, or for a breach of official duty. For an act of contempt he shall be liable to be attached forthwith. For a breach of official duty he may be required, by rule or answer to the complaint of any suitor of the Court, to appear upon failing to answer or to comply with the order of the Court, made on hearing of said rule, he shall be liable to be attached as for a contempt and committed to close

Civ. '02, § 5.

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il he shall have complied with the requisition of the
In all cases, interrogatories may be propounded to
which he shall answer on oath, either orally or in
as the Court may order.

v. Cheney, 1 Hill, 145; James v. Smith, 2 S. C., 183; Emory v.
S. C., 23; Kirby v. Woods, 5 S. C., 1; Prince v. Sutherland, 12
; Charles v. Charles, 13 S. C., 385; Warren v. Simons, 16 S. C.,

1133. If any Sheriff shall fail to execute or return Liability for failure to execute final process or pay over money.
process in any civil suit, or to pay over money, when
ed, that has come into his hands as Sheriff, to the
ntitled thereto, and shall be unable, on the return of
that may be issued against him, to show sufficient
he shall be liable to be attached for a contempt and
ted to custody until he shall comply with the order
t.

. Sheriff, 1 Mill, 145; Summers v. Caldwell, 2 N. & McC., 341; Ex
phens, 1 McC., 87; Levy v. Roberts, 1 McC., 395; Chiles v. Hollo-
McC., 164; Noonan v. Gray, 1 Ball., 437; Ex parte Thurmond, 1
; McLean v. DuBoe, 1 Ball., 646; Dawkins v. Pearson, 2 Ball.,
k v. Condy, 1 Hill, 209; Johnson v. Shubert, 2 Hill, 502; Thomas
Dud., 292; Rice v. McCilintock, Dud., 354; Pitman v. Clarke, 1
; Cooper v. Scott, 2 McM., 150; Connor v. Archer, 1 Speer, 89;
ck v. Ford, 2 Speer, 110; Canady v. Odum, 2 Rich., 527; Brown v.
Rich., 530; Treasurer v. Cleary, 3 Rich., 372; Maddox v. William-
rob., 23; Emory v. Davis, 4 Strob., 23; Starnes v. Prince, 6 Rich.,
k v. Byrd, 10 Rich., 120; Dawson v. Dewan, 12 Rich., 499; Wallace
m, 13 Rich., 322; Kuhn v. Law, 14 Rich., 18; Caskey v. McMullen,
196; Emory v. Davis, 4 S. C., 23; Gibson v. Gibson, 7 S. C., 356;
Giltreath, 16 S. C., 106; Bragg v. Thompson, 19 S. C., 577.

1134. If any Sheriff, upon the demand of any To pay over money one day after demand; penalty for refusal; proviso.
ff, or his attorney, shall wilfully refuse to pay over
um of money collected for such plaintiff, within
y-four hours, the Sheriff so in default, besides being
to rule and attachment, shall be liable also to pay to Civ. '02, § 857.
plaintiff, or his legal representative, the said sum with-
and interest thereon, for the time he may withhold
sum after demand, at the rate of five per cent. per
; and if any regular Deputy Sheriff (in the absence
h Sheriff), having such fund, shall refuse, one day
demand, to pay over the same, the Sheriff shall, for
default, be liable to the same penalties as are herein
ded; but nothing herein contained shall apply to the
ion of money on account of *bona fide* conflicting

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Commissioner v. Allen, 2 Mill, 88; Kilpatrick v. Vandiver, 2 Mill, 341; Kelly v. Payne, 1 McC., 138; Daniel v. Capers, 4 McC., 237; Wilks v. Hasket, Harp., 400; Wright v. Hamilton, 2 Ball., 51; Treasurer v. Oswald, 2 Ball., 214; Graham v. Durant, 2 Hill, 517; Thomas v. Altkin, Dud., 222; Thomas v. Yates, 1 McM., 179; Williamson v. King, McM. Eq., 41; Taylor v. Easterling, 1 Rich., 310; Walker v. Kennerly, 3 Rich., 64; State v. Wiley, 2 Strob., 113; Posey v. Rainey, 4 Strob., 20.

Must furnish statement of reasons for failure to make execution, when required.

Sec. 1135. The Sheriff, in case of partial or entire failure to make execution, must, when required by any person having control of the execution, furnish a written statement, subscribed by him, of the reasons for such partial or entire failure.

Civ. '02, § 858.

Penalty for purchasing executions.

Civ. '02, § 859.

Sec. 1136. If any Sheriff, or his deputy, shall contract for, buy or purchase any judgment or decree of any Court which may become his duty to enforce, or any execution lodged in his office, or cause the same to be done, directly or indirectly, the said Sheriff, or his deputy, shall forfeit and pay, for every such offence, treble the amount of such judgment, decree, or execution, one-half of which said forfeiture shall be paid to the State and the other half to the informer; and the same shall be recoverable with full costs by action or by indictment in any Court of competent jurisdiction, and, by any such purchase, such judgment, decree, or execution shall be *ipso facto* satisfied.

Penalty for permitting prisoners committed by civil process to go at large; proviso.

Civ. '02, § 860.

Sec. 1137. If any Sheriff, or his deputy, shall permit any prisoner, committed to his custody on mesne or final process, in any civil action, to go or be without the prison walls, without lawful authority, or if any Sheriff, or his deputy, suffer such prisoner to go or be at large, out of the rules of the prison, (except by some writ of *habeas corpus*, or rule of Court, which rule shall not be granted but by motion in open Court,) any such going and being out of the prison walls, or prison rules, as the case may be, shall be adjudged and deemed an escape. If any Sheriff, or his deputy, shall, after one day's notice in writing, given for that purpose, refuse to show any prisoner committed to his charge to the plaintiff at whose suit such prisoner was committed, or to his attorney, such refusal shall be adjudged to be an escape: *Provided*, That the Sheriff shall discharge a defendant in custody on mesne process in a civil case where the plaintiff is nonsuited.

Baker v. DeLlessellne, 4 McC., 372; Burns v. Brian, 1 Speer, 131; Cook v. Irving, 4 Strob., 204; State v. Halford, 6 Rich., 58; Conyers v. Rhame, 11 Rich., 60.

OF SOUTH CAROLINA.

son shall be taken on mesne or
r, and from inability to pay the
r find bail if committed to the
lands, tenements, goods, chat-
ereby his maintenance in jail
ff or person at whose instance
ned, shall pay and satisfy the
or his attorney, shall refuse or
ous notice, to pay, or give secur-
lemanded, the Sheriff or Jailer,
ner is, may discharge him from
l, *however*, That such prisoner
ed, render, on oath, a schedule
he same.

Walton v. Oswald, 4 McC., 501; *Thomason
ertaon*, 6 Rich., 228.

hall be liable for the negligent
mesne or final process to such
may have sustained: *Provided*,
prisoner shall not mitigate the
sufficient to carry costs.

s v. Yeadon, 4 McC., 18; *Boyce v. Bark-
elline*, 4 McC., 372; *Harvey v. Huggins*, 2
ll, 432; *Hall v. Taggart*, *Dudley*, 368;
Conyers v. Rhame, 11 Rich., 60.

, Deputy Sheriff, Jailer, or other
soner in his custody, under con-
ial charge not capital, to escape.
ishment and penalties as the pris-
sentenced to, or would be liable
f the crime or offence wherewith

r Deputy Sheriff shall be con-
r or indirectly, in the purchase of
r of them officially; and if any
eriff shall be concerned or inter-
at any such sale, made by either
ction thereof, be deprived of his
be fined and imprisoned at the
l such purchase shall be null and

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ary v. Carter, 1 Bailey, 467; Lewis v. Brown, 4 Strobb. v. McDonald, 5 Strobb., 77; Leger v. Doyle, 11 Rich., 109; Stevens, 75 S. C., 254; 55 S. E., 309.

1142. The Sheriff shall pay over the proceeds of real estate sold by him to any judgment having precedence.

A judgment to another does not acquire a prior lien on property by the judgment debtor subsequent to the entry of both judgments. If liens attaches at the same time, and they are entitled to a preference. —Belknap v. Greene, 56 S. C., 119; 84 S. E., 26. See Hunt, 2 Ball., 412; Taylor v. Easterling, 1 Rich., 310; Furr, 3 Rich., 1; Lynch v. Hannahan, 9 Rich., 186; Wallace v. G., 322; State v. Bolles, 18 S. C., 283; Trimmier v. Williams, 2; Garvin v. Garvin, 34 S. C., 388; 18 S. E., 625. Applies to judgment of Federal Court in re Voorhees; Hurst v. Latimer, 46 S. C., 170.

1143. In all cases where any Sheriff, Probate Judge, Clerk of Court, or Master, shall have heretofore legally sold, or hereafter shall legally sell, any real or personal estate, and such Sheriff, Probate Judge, Clerk of Court, or Master shall be dead, resigned or otherwise out of office, or shall hereafter die, resign or otherwise go out of office before having executed titles therefor to the purchaser, it shall be lawful for any subsequent Sheriff, Probate Judge, Clerk of Court, or Master, of the same County, upon terms of sale being complied with, or satisfactory evidence produced that the same have been complied with, to make and execute good and sufficient title to the purchaser for the property so sold.

See Savings Bank v. McMahon, 37 S. C., 309; 16 S. E., 31.

1144. All judicial sales shall be made by the Sheriff, or otherwise provided by law. In all such sales made by the Sheriff his fees shall be the same as allowed by law on sales by executions issuing from the Court of Common Pleas in the Counties of Lancaster, Georgetown, Charleston, Beaufort and Lexington Counties, where the same are allowed the same commissions as are now allowed by the Courts in similar cases, and except in Georgetown County, where it shall be lawful for the Sheriff to be conducted at the Charleston Real Estate Exchange or such other place in said County as the Court may direct, any law or custom to the contrary notwithstanding.

See Alexander, 22 S. C., 169; Williams v. McLendon, 44 S. C., 516.

1145. Whenever a Sheriff shall collect moneys in that have been entered in the books of his predecessors, and enter such cases in his own execution book, with an account of the money so collected.

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Collection of money; how entered.

Civ. '02, § 868.

1146. All Sheriffs are required, on the first Wednesday of every month, or within ten days afterward, to make a statement to the Auditor and Treasurer of the several counties a full and accurate statement of all moneys collected by them on account of licenses, fines, penalties or forfeitures during the past month.

Monthly statement of Auditor and Treasurer of fines, etc.

Civ. '02, § 869.

1147. It shall be the duty of the Sheriffs of this State, and they are hereby required, under the penalty hereinafter provided, to arrest in their respective Counties, without a warrant, all escaped convicts from the penitentiary or from the chaingang or jails found in their said counties; and upon said arrest it shall be the duty of said Sheriffs to immediately notify the proper authority from whose care said convicts escaped.

Duty of Sheriffs to arrest escaped convicts.

Civ. '02, § 870.

1148. Whenever the County Sheriff shall receive tax executions from the County Treasurer, he shall give the County Treasurer an itemized receipt therefor, and shall enter each execution separately upon the execution book in which he enters wherein he enters executions issued out of the Court of Common Pleas, and in the same manner.

Sheriffs to receipt for tax executions.

Id. Civ. '02, § 871.

1149. It shall be the duty of the Sheriff of the County to pay over to the County Treasurer, upon his written demand therefor, at the expiration of the time allowed by law for the enforcement of said tax executions, and to deliver to the County Treasurer's receipt therefor in each case on the execution book where said execution is entered.

To pay to Treasurer taxes collected.

Civ. '02, § 872.

1150. It shall be the duty of the Sheriff, at the expiration of the time allowed by law for the enforcement of tax executions, upon the written demand of the County Treasurer, to return to him all uncollected tax executions, with his return endorsed on each execution, stating his reasons for failure to collect the same, and to deliver to the County Treasurer's receipt for each uncollected execution on the execution book where the same is entered, and to enter his return on the execution book where the uncollected execution is entered, as well as

Uncollected tax executions to be returned to Treasurer; when, how, etc.

Civ. '02, § 873.

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Penalty for
failing to re-
turn uncol-
lected tax ex-
ecutions.

1901, XXIII.
D.
Civ. '02, §
1.

Sec. 1151. For failure to return any uncollected execution, as herein required, within five days after expiration of the time allowed by law for enforcing same, and after the written demand by the said County Treasurer, the Sheriff shall forfeit and pay to the County Treasurer the taxes, penalties and County Treasurer's costs for which such execution was issued, which shall be recoverable by said County Treasurer from the Sheriff and sureties on his official bond in any Court of competent jurisdiction: *Provided*, That the Sheriff so failing to return any uncollected executions shall make it appear that such failure is due to the loss or destruction of such executions without fault on his part, then he shall not be subject to such penalty.

or making
false return
on any tax execu-
tion.
Civ. '02, §
1.

Sec. 1152. For negligently or fraudulently making false return on any tax execution, the Sheriff shall forfeit and pay to the County Treasurer the taxes, penalties and County Treasurer's costs for which such execution was issued, which shall be recoverable by said County Treasurer from the Sheriff and the sureties on his official bond in any Court of competent jurisdiction.

Penalties
to be recov-
ered by Sink-
ing Fund
Commissioners.

Civ. '02, §
1.

Sec. 1153. In all cases where the Sheriff has failed to return uncollected tax executions, as herein required, or negligently or fraudulently made false returns of any tax executions, and the County Treasurer has failed for two months to enforce the penalty provided herein for the failure of the Sheriff to return any tax execution as herein required, or for making such false return, the Commissioners of the Sinking Fund may, within twelve months thereafter, sue for and recover from the Sheriff and sureties on his official bond the taxes and penalties for which such execution was issued, in same manner as the County Treasurer could have sued and recovered under the provisions of Section 1152.

It relieved
in other
titles.
Civ. '02, §
1.

Sec. 1154. Nothing herein contained shall be construed to relieve the Sheriff from any of the penalties, civil or criminal, now provided by law for his failure to comply with the law prescribing his duties in relation to tax executions.

Sec. 1155. Upon the written petition of the majority of the freeholders of that portion of Charleston County lying between the Ashley and Cooper Rivers and the northern

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ary lines of the city and County of Charleston, respectively, who shall be assessed on the tax books of Charleston in an amount not less than \$500, setting forth that in their opinion the interest of the said community and the safety require police supervision, and directed to the Sheriff of the said County, recommending the appointment of one or more persons, not exceeding two, to be appointed under, it shall thereupon be the duty of the Sheriff of Charleston County to appoint such one or more persons, so recommended by and with the consent of the County Commissioners, as his Deputy or Deputies, whose term of office shall expire with the term of said Sheriff, unless sooner by him or cause removed, and whose duty it shall be, under the direction of the Sheriff of Charleston County, to police the said territory and to exercise therein all the rights and powers of Deputy Sheriffs. Before entering upon the duties of the said office, the said Deputy or Deputies shall take the oath prescribed by the Constitution and Statutes of this State. The said Deputies, or any one of them, shall be removed by the said Sheriff, and another or others appointed in his stead, whenever a statement in writing shall be made to the said Sheriff by the majority of freeholders as aforesaid, stating that the said Deputy is not discharging his duties to the satisfaction of the said freeholders and requesting a new appointment.

Special police for certain portions of Charleston County.

1906, XXV, § 55.

How appointed.

Oath.

§ 1156. The said police officers or Deputy Sheriffs shall have, do and exercise all the rights, duties and powers prescribed by law for Constables of Magistrates, and such powers as are usually exercised by Marshals and Policemen in towns and cities, and shall also act conservators of peace; they shall take into custody and carry before the nearest Magistrate any person who may in their view engage in riotous conduct or violation of the peace, and refuse, upon command, to desist therefrom; and shall also arrest any person who may in their view commit any felony or misdemeanor, and carry him before a Court of competent jurisdiction; and they shall execute any criminal process

Duties and powers.

appointed under the provisions of this act shall each execute a bond in the amounts and on the conditions as required of Constables

Bond.

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on 1108, and shall be subject to the provisions of 1098 of said Code. The Sheriff of the County shall be responsible for any malfeasance or misfeasance of his officers or Deputy Sheriffs so appointed under the provisions of this Act.

58. Each Police Officer or Deputy Sheriff shall receive as salary the sum of \$75 a month, and shall be provided a suitable uniform, and a horse, which shall be maintained by him, so that he may perform his duties as a mounted officer. The said salary shall be paid monthly by the County Treasurer upon the audit and recommendation of the said Sheriff.

FOR AIKEN, LAURENS AND RICHLAND COUNTIES.

59. It shall be the duty of the Governor, upon the recommendation of the legislative council, to appoint from Aiken County, three able-bodied men of good habits and of courage, coolness and discretion, who shall be registered electors of said County, and who are not addicted to the use of alcohol or of drugs, and shall commission them as County Justices, for a term of four years, subject to removal or re-election for cause: *Provided, however*, That no two shall be related by blood or marriage within the third degree to any member of the said delegation.

60. The Governor, upon the recommendation of the members of the General Assembly for the County, shall appoint from the registered electors of said County two able-bodied men of good habits, and known to be not addicted to the use of alcoholic liquors, and shall commission them as County policemen for a term of two years, subject always to removal by the Governor for cause. The County Board of Commissioners of said County shall fix the salaries of said policemen, which shall be seventy-five dollars per month, payable by the County Treasurer upon the warrant of the County Supervisor out of the ordinary County funds, and shall furnish each with two uniforms per year.

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d and approved by the County Board of Commis-
Provided, however, That said policemen shall pro-
 nselves with policemen's billets and such firearms
 be prescribed by the said County Board of Com-
 rs, and with horses for regular use in riding over
 ty and performing duty as mounted policemen,
 d bear all expenses incident to their service.

§1. A County Police Commission is hereby estab-
 Richland County, consisting of the Sheriff as mem-
Proviso, who shall be chairman of the Commission, and
 er members to be appointed by the Governor upon
 nmendation of the County delegation in the General
 y, or a majority thereof, for the term of four years,
 s to be filled in like manner. That each member of
 mmission shall receive as compensation twenty-five
 per annum: *Provided, however,* That the first
 nents shall be of two members for two years and two
 s for four years.

said Commission shall choose from the registered
 of said County, four able-bodied men of good habits
 ourage, coolness and discretion, known as men who
 addicted to the use of alcoholic liquor or of drugs,
 ll commission them as County policemen for term of
 rs, subject to removal by said Commission for causes,
 ll fix the compensation and have direction and con-
 said policemen and of all matters connected with the
 of County police, and shall at least once a month
 th said policemen and confer and advise with them
 that they are informed and alert as to their duties
 enforcement of law in the County, and said Com-
 shall annually report on the operation of said sys-
 the Clerk of the Court, who shall keep said report
 to public inspection and shall forward a copy thereof
 Attorney-General, to be by him used in connection
 s annual report to the General Assembly: *Provided,*
 r, That no policeman shall be related by blood or
 ge within the sixth (6th) degree to any member of
 mmission.

policemen shall be paid salaries of not less than fifty
 t more than seventy-five dollars per month, on the
 f the Commission or the chairman thereof upon the

County po-
 lice commis-
 sion for Rich-
 land County.

1909, XXVI.
 416.

County po-
 licemen.

Compensa-
 tion of po-
 licemen.

CIVIL CODE

y Treasurer, and shall be furnished each with arms per year, to be prescribed and approved in Commission: *Provided, however,* That said policemen shall be furnished with policemen's billets and with uniforms as may be prescribed and approved by the Court, and with horses for regular use in riding out on duty and performing duty as mounted police, and shall be paid all the expenses incident to their service.

1162. That it shall be the duty of said policemen in said Counties under the direction of the Sheriff of the County, to patrol and police the County, especially rural districts, and to prevent or detect and prosecute violations of the criminal law of every kind, and to act upon their own initiative as well as upon communication, and to report all their acts, and all known violations of criminal law in Aiken County, to the Court once a week, and at its meeting once a month, or oftener, if required; and in Laurens County once a week, or oftener, if required, and in Richland County to the Court through the chairman once a week, and at the meeting of the Court of General Sessions, on a day appointed by the Court, appear before the Solicitor, in his presence, before the Judge, at his chambers, and before the grand jury, by each advised, instructed and charged in respect to their duties and questioned in respect to conditions of lawlessness in the County: *Provided,* That in Laurens County shall appear before the Court of General Sessions on the first day of each term thereof and report to the Solicitor the conditions with reference to lawlessness in the County during the term of the Court to be subject to the order of the Solicitor.

1163. That said policemen shall patrol the County at least twice a week by sections assigned to them for one or more days, remaining on duty at such times and on such occasions or circumstances suggest the propriety of, to prevent or detect a crime or to make an arrest; they shall always be on duty not less than ten hours except when granted occasional indulgencies or leave of absence; they shall frequent railroad depots, stores, and other public places where people congregate, or disor-

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le, or vagrants may be loafing, or alcoholic liquors
e sold or drunk, and they shall, as often as practicable,
y homes that are off from the public highway and in
parts of the County, especially such as are without
rotectors, and they shall use every means to prevent
ect and arrest and prosecute for breaches of the peace,
enness, obscene or profane language, or boisterous
ct, or discharge of firearms on a public highway or at
lic place or gathering, carrying weapons contrary to
unting or otherwise trespassing on land without the
ssion of the owner or manager, gambling, vagrancy,
ng fire on lands of another, setting out fire, violation
e fish and game laws, cruelty of animals or to children,
lation of the child labor laws, miscegenation, lynching,
lso any and every other violation of the criminal laws.

1164. That said policemen shall have authority for Authority of
policemen.
suspected freshly committed crime, whether upon view
on prompt information or complaint, to arrest with-
varrant, and in pursuit of the criminal to enter houses
eak therein, whether in their own County or in an
ning County; and they shall have authority to summon
posse comitatus to assist in enforcing the laws, and any
en who shall fail to respond and render assistance when
ummoned shall be guilty of a misdemeanor, and upon
iction shall be punished by imprisonment for thirty
s or fine of one hundred dollars: *Provided*, That in
rens County he shall be punished by imprisonment for
ty days or by a fine of not less than thirty nor more
n one hundred dollars: *Provided, further*, That in
rens County where an arrest is made without warrant,
person so arrested shall be forthwith carried before the
rest Magistrate and a warrant of arrest procured and
posed of as the Magistrate shall direct.

ec. 1165. That each of said policemen before receiving Oath of of-
fice.
commission shall, in addition to the oath of office now
scribed by Section 26 of Article III of the Constitution,
l by Section 640, take the additional oath hereinafter
scribed.

ec. 1166. In addition to the oath of office prescribed in Additional
oath in Aiken
County.
ction 1165 in Aiken County each of said policemen shall
re and subscribe the following oath or affirmation, to wit:

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further solemnly swear (or affirm) that during my term of office as County policeman I will study the laws of the State and prescribing my duties, and endeavor to inform myself of the criminal laws of the State, and will be alert and vigilant to enforce the same, and to detect and bring to punishment every violator of the same within my County, and will conduct myself at all times with due consideration to all persons, and will not be influenced in any matter on account of personal bias or prejudice, so help me God." And the State Librarian shall furnish each policeman a copy of the Code of Laws of South Carolina and Acts amendatory to the criminal statutes, and each policeman before he is commissioned shall enter into bond made payable to the County, to be approved by the Board of Commissioners, and by the Clerk of the Court, in the sum of five hundred dollars with sufficient surety, conditioned for the faithful performance of his duties, and for such damages as may be sustained by reason of his negligence in office or abuse of his authority.

1167. In addition to the oath of office above provided for in Section 1165, in Laurens County, each of the policemen shall take and subscribe the following oath of office, to wit: "I further solemnly swear (or affirm) that during my term of office as County policeman, I will be alert and vigilant to enforce the criminal laws of the State and to detect and bring to punishment every violator of the same, and will conduct myself, at all times, with due consideration to all persons, and will not be influenced in any matter on account of personal bias or prejudice, so help me God."

Each of said policemen shall before entering upon the performance of his duty, enter into bond in the sum of five hundred dollars with sufficient surety to be approved by the Board of Commissioners of the County of Laurens, conditioned for the faithful performance of his duties, and for such damages as may be sustained by reason of his negligence in office or abuse of his discretion.

The said bonds and oaths shall be filed and kept with the records of the Court for Laurens County.

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the Township of Schultz, in said County, a policeman possessing the qualifications enumerated in Section 1182, shall be appointed in the manner provided in the same, and shall have the same duties and powers provided for other policemen, and be subject to all the provisions thereof, with the exception that his services shall be confined solely in Schultz Township. That this policeman shall give bond in the sum of \$250.00: *Provided*, That his services, shall be paid by the County \$500.00 per annum and shall be permitted to accept any additional salary to be paid him by the town council of North Augustus. That said rural policemen shall serve no civil process or perform any similar duty. That said rural policemen shall not hold any other office, except that of notary public, during their term of office; nor shall they personally perform any work in any other kind of work or business; and they shall not serve civil process or other similar process. That all of the provisions herein shall be good and in full force and effect until their repeal or amendment, and until their removal from office.

ARTICLE III.

THE CORONER.

Section of.
Term of office.
Vacancy; how filled.
Fiducial bond.
Fiducial oath; when to be
commissioned.
Coroner's deputies; appoint-
ment and duties of.
Right to act under appointment
of Sheriff; penalty.
Office, where kept; book of
inquisitions.
Coroner to take inquests.
Magistrates to act as Coroner,
in what cases.
Book of inquisitions.
Inquisitions, etc., to be re-
turned to Clerk; when.
Indorsement on return.
Coroner to act as Sheriff, in
what cases.

Sec.

1184. When Sheriff's office vacated, to act as Sheriff generally, to keep his book, and what entered therein.
1185. Not bound to act except specially instructed, etc.
1186. To make list of prisoners, when, how made, and lodged.
1187. To turn over papers, etc., to succeeding Sheriff.
1188. Salary of Coroner; to appoint deputy; salary of special deputy.
1189. Duties of Coroner and deputies.
1190. Certain Magistrates on Island to hold inquests.
1191. Salaries; how paid.
1192. County Commissioners to provide office, books, etc., for Coroner; proviso.

1170. There shall be an election for County Coroner in every County, except in the Counties of Berkeley, Cherokee, Darlington, and Hampton, by the qualified voters thereof, at each alternate general election, reckoning from the next election in the year one thousand eight hundred and twenty-two. In the Counties excepted the next election shall be in 1902.

1171. The term of office of the Coroner shall be four years, and until his successor shall be elected or appointed, he shall qualify.

1172. In the event of a vacancy in the office of Coroner, the Governor shall have full power to fill the same by appointment, as provided in Section 278.

1173. Before receiving his commission he shall enter into a bond, to be executed by him and any number of sureties, not exceeding twelve nor less than two, to be approved, recorded and filed as prescribed in Article 1 of Chapter 1 of the Code. In the County of Charleston the bond shall be in the sum of ten thousand dollars, and in each of the other Counties two thousand dollars.

See v. Hoke, 2 Speer, 133.

1174. Before he is qualified to act he must take and subscribe the Constitutional oath of office, and also the oaths required of such officer by Sections 640 and 641.

When a person has been elected, or designated, for appointment, to the office of Coroner, and has taken and subscribed the oaths and given the bond as required by law, the Governor shall issue a commission to him accordingly.

1175. The Coroner of any County, except Charleston, may appoint one or more deputies, to be approved by the Judge of the Circuit, or by any Circuit Judge presiding therein, who shall take and subscribe the oath prescribed by the Constitution, and also the oaths with respect to duelling, gaming, prior to entering upon the duties of said appointment; said oaths may be administered by any officer authorized to administer oaths in the County. Such appointment must be evidenced by a certificate thereof, signed by the Coroner, and shall continue during his pleasure. He shall be relieved from his deputy as he may see fit, and shall be faithful discharge of the duties

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Election of Coroners.

Civ. '02, § 878.

Term of office.

Civ. '02, § 879.

Vacancy; how filled.

Civ. '02, § 880.

Official bond.

Civ. '02, § 881.

Official oaths.

Civ. '02, § 882.

When to be commissioned.

G. S. 705; R. S. 754.

Coroners' deputies; appointment and duties of.

Civ. '02, § 884.

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of the appointment, but shall always be answerable for neglect of duty or misconduct in office of such deputy. When duly qualified, as herein required, the deputy appointed may do and perform any or all of the duties appertaining to the office of his principal.

Not to act under appointment of Sheriff; penalty.

Civ. '02, § 186.

Sec. 1176. No Coroner shall act as Jailer, Deputy Sheriff or under any appointment by a Sheriff; and if he accept or shall act under the appointment of the Sheriff in his County, his office shall be vacated and the same shall be filled in the manner provided by law in case of vacancy or any other cause.

Office, where kept: book of inquisitions.

Civ. '02, § 186.

Sec. 1177. He shall keep an office at the court house in his County, which shall have proper fixtures, and in which he shall keep his book of inquisitions, which book shall be public property and shall be turned over to his successor in office.

Coroners to take inquests.

Civ. '02, § 187.

Sec. 1178. Every Coroner, within the County for which he has been elected or appointed, is empowered to hold inquest of casual or violent deaths, where the dead body lies within his County.

Coroner v. Cunningham, 2 N. & McC., 454.

Magistrate to act as Coroner, in what cases.

Civ. '02, § 188.

Sec. 1179. Any Magistrate of the County, except in the County of Charleston, is authorized and required to exercise all the powers and discharge all the duties of the Coroner in holding inquests over the body of deceased persons and taking all proper proceedings therein, in all cases where the Coroner of the County is sick or absent, or at a greater distance than fifteen miles from the place for such inquest, or when the office is vacant.

Books of inquisitions.

Civ. '02, § 189.

Sec. 1180. Every Coroner shall keep a book, to be called "The Coroner's Book of Inquisitions," into which he shall copy all inquests found within his County, together with evidence taken before the jury, and all proceedings before or after their finding.

Inquisition, &c., to be returned to the clerk; when.

Civ. '02, § 190.

Sec. 1181. The original inquisition and evidence, taken by him, shall be returned by the Coroner, within ten days next after the finding thereof, to the Clerk of the Court of General Sessions for the County in which it was found.

State v. Campbell, 1 Rich., 124.

1182. The Coroner, before he returns such inquisition evidence, shall endorse the same in this form:

CAROLINA, }
... County, }

The State vs. The Dead Body of A. B.

Inquisition taken this day of, A. D., by
....., Coroner for said County, entered and
..... in Coroner's Book of Inquisitions, page, this
day of, A. D."

1183. If the Sheriff shall be a party plaintiff or defendant, in any judicial process, execution, warrant, summons or notice to be served or executed, within his County, the Coroner shall serve or execute such process, execution, summons or notice; in the discharge of which he shall incur such liabilities as would by law attach to the performance by the Sheriff himself.

See Yeaden, 3 McC., 11; *State v. Irby*, 1 McM., 485; *Camble v. Hoke*, 108; *McBee v. Hoke*, 2 Speer, 138.

1184. The Coroner, during a vacancy in the office of Sheriff, shall act as Sheriff, and while discharging the office of Sheriff shall provide a suitable book, in which he shall enter such executions or other papers as he may be directed to enter by competent authority; and also all new writs, summonses, executions or other papers proper to be entered in the Sheriff's office; and also all his proceedings as Sheriff in mandamus or other writs, or a certified copy thereof, he shall leave in the Sheriff's office as a record.

See *Anderson v. Croft*, 1 Ball., 264; *State v. Irby*, 1 McM., 485.

1185. The Coroner shall not be bound to act upon papers in the Sheriff's office, unless he is specially directed; nor shall he be bound to embrace, in his return to the Clerk's office, any execution found in the Sheriff's office which is not entered in his book, or upon which he may have taken any proceedings.

1186. As soon as the Coroner shall enter upon the office of Sheriff, he shall, in the presence of the Clerk of the County, or jailer of the County, if there be one, make a list

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Endorsement
on return.

Civ. '02, §
891.

Coroner to act
as Sheriff, in
what cases.

Civ. '02, §
892.

When Sher-
iff's office va-
cant, to act
as Sheriff
generally: his
book, and
what.

Civ. '02, §
893.

Not bound
to act, ex-
cept specifi-
cally instruct-
ed, etc.

Civ. '02, §
894.

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To make list
of prisoners;
when, how
made, and
where lodged.

Civ. '02, §
895.

To turn over
papers, etc.,
to succeeding
Sheriff.

Civ. '02, §
896.

Salary of
Coroner; to
appoint depu-
ty; salary of;
special depu-
ty.

Civ. '02, §
897.

Duties of
Coroner and
deputy.

Civ. '02, §
898.

Certain Mag-
istrates in
Charleston
County may
hold inquests.

Civ. '02, §
899.

Salaries; how
paid.

Civ. '02, §
900.

of the prisoners in the jail, which must be signed by him and the jailer, entered in the Coroner's book, and original lodged in the Clerk's office.

Sec. 1187. Upon retiring from the Sheriff's office he shall turn over the papers of the office and the prisoners in the succeeding Sheriff in manner and form as Sheriff shall be required to execute the same duty.

Sec. 1188. The Coroner of Charleston County shall be paid a salary at the rate of two thousand dollars per annum. He shall appoint one deputy, who shall reside at the County seat, and shall perform all the services of the Coroner. The deputy shall receive a salary of eight hundred dollars per annum. The Coroner may appoint a Special Deputy Coroner, who shall have jurisdiction in any part of the County, whenever any special occasion may require such appointment; but such Special Deputy shall have no right to make any charge against the County for his services.

The evidence of appointment of special deputy should be in writing. *Butts v. County of Charleston*, 17 S. C., 585.

Sec. 1189. The Coroner and his deputy, subject to the orders and instructions, shall perform all the duties of the Coroner within said County, and shall summon and warn jurors for inquests held by them or either of them; and every person so summoned and warned and failing to appear and act as such juror shall forfeit and pay the sum of twenty dollars, if without reasonable excuse, to be recovered by action.

Sec. 1190. All the Magistrates residing outside of the limits of the city of Charleston, and appointed for the County of Charleston outside of the city limits, shall, in the absence of the Coroner, hold such inquests as may be necessary and do such other business as pertains to the office of the Coroner in cases arising within his vicinity. In all such cases the said Magistrates shall receive for such services, beside their salaries as Magistrate, the sum of fifty dollars per annum, if so much be necessary.

Sec. 1191. All the salaries herein provided shall be paid out of the funds of the County upon the order of the County Commissioners, and shall be in lieu of all charges, costs and fees, except the costs, fees and compensation to which the Coroner may be entitled while acting as Sheriff.

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1192. The County Commissioners of said County provide for the Coroner an office in the city of Charleston and necessary books and stationery, provided the same not exceed the cost of twenty-five dollars per annum.

County Commissioners to provide office, books, etc., for Coroner; proviso.

Civ. '02, § 201.

ARTICLE IV.

THE CLERK OF CIRCUIT COURT.

Election of.

Is Clerk of Courts of Sessions and Common Pleas; vacancies: how filled.

Official bond; penalty of.

Official oaths; commissions to be read and entered in Journals.

May appoint a deputy; his oaths; evidence of appointment, etc.

Office days and hours; duties, etc.

Clerical regulations of office; cases for papers; seal; record books.

To have charge of Court House; regulations concerning; penalty.

How papers of office to be filed, arranged and endorsed.

Books to be used by Clerk.

Size of books required to be kept by Clerk.

To read minutes to Judge before adjournment daily.

Books and records not to be removed from office; parties and attorneys may inspect, etc.

May administer oaths, etc., sign orders of reference, grant orders in partition and dower; when.

May act as attorneys; exception.

Not to act as Sheriff or Deputy Sheriff; exception.

To enforce jury laws.

Jurors' and Constables' roll; how made, where entered, and to whom transmitted; pay certificates, form of.

To adjourn Court in the absence of the Judge.

Sec.

1212. To issue executions, bench warrants, and all other processes; to sign all judgments officially.

1213. To witness and approve security of costs; form of.

1214. May grant writs of *dedimus potestatem*; for what purposes.

1215. Must enter, or permit to be entered, satisfaction of judgments and mortgages; when.

1216. To act as Judge of Probate when the office is vacant.

1217. To act as Sheriff when that office is vacant.

1218. To enter renewals and satisfactions of execution; where.

1219. To administer oaths to Magistrates and transmit list to Secretary of State; when.

1220. Duties respecting oaths and bond of Constable, etc.

1221. Accounts against County; how to be rendered.

1222. Certifies contingent accounts of certain officials.

1223. Certificate to County Commissioners as to liens of record; when to be given.

1224. To keep standard weights and measures; how procured.

1225. To make annual return to County Commissioners as to fines and forfeitures; penalty, etc.

1226. Responsible for office books, papers and furniture; to turn over to successor, etc.

1227. Fines, penalties, and taxes from shows, to be paid to Treasurer; informers, etc.

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SEC.

1228. To report monthly to Auditor and Treasurer as to fines, etc., collected.
1229. Penalty for not paying over funds.
1230. Penalty for not paying over fines, etc.
1231. To report to Court at each session as to funds in hand, vouchers, etc.

SEC.

1232. Bill of costs to be attached to executions.
1233. To mark records of mortgages foreclosed in Court satisfied.
1234. Form of endorsement to be made on the record.
1235. To keep record of all persons elected to office.

Election of.
Civ. '02, §
902.

Section 1193. There shall be an election for Clerk of the Court of Common Pleas in each County by the qualified voters thereof at each alternate general election, reckoning from the election in the year 1888, except in the Counties of Berkeley and Cherokee, where the reckoning shall be from the election in the year 1890.

Relster v. Hemphill, 2 S. C., 325; Wright v. Charles, 4 S. C., 178; McCoy v. Curtis, 14 S. C., 371; Williams v. Ostendorf, MS. Dec., 1877; State v. Sims, 18 S. C., 462.

Is Clerk of
Courts of Sessions and
Common Pleas, etc.;
vacancies:
how filled.

Civ. '02, §
903.

Vacancies:
how filled.

Civ. '02, §
904.

Sec. 1194. The Clerk elected in each County shall be Clerk of the Courts of General Sessions and Common Pleas, and of all other Courts of record therein, except the Court of Probate. In the event of any vacancy in the office the Governor shall have full power to fill the same by appointment, as provided in Section 278. Until such vacancy be filled by appointment or election, the Judge of Probate of the County shall take charge of the office, discharge the duties and receive the fees thereof, and be subject to all its liabilities as provided by law.

State v. Harmon, Cheves, 265; State v. Coleman, 54 S. C., 282; 32 S. E. 406.

Official bonds,
penalty of.

Sec. 1195. Before receiving their commissions they shall enter into bond, to be approved and recorded and filed, as prescribed in Chapter XVIII, Article 1, in the penal sums following: The bond of the Clerk for Charleston County, twenty thousand dollars; for Oconee and Horry Counties, six thousand dollars; for Edgefield, Calhoun and Saluda Counties, each five thousand dollars; and for each of the other Counties, ten thousand dollars.

Treasurers v. Ross, 4 McC., 273; Treasurers v. Lang, 2 Ball., 430; State v. Moses, 18 S. C., 372; C'ester v. Hemphill, 20 S. C., 584; 8 S. E., 193; State v. Lake, 30 S. C., 43; 8 S. E., 322; Strain v. Babb, 30 S. C., 342; 9 S. E. 271.

A. D. 1912.

1196. The Clerk before entering on the duties of his office, in addition to the oath of office prescribed by the Constitution, take the several oaths required of such officer by sections 640 and 641. Said oaths must be endorsed upon the commission, subscribed by the officer and attested by a Justice of the Peace or Notary Public of the County for which the Clerk shall have been elected or appointed. At the beginning of the first term of the Court which may be held after the Clerk shall produce his commission, with the oaths aforesaid, and after the same has been read in open Court shall make a fair entry thereof in the journals of the Court.

Official oaths:
commission to
be read and
entered in
Journal.

Civ. '02, §
905.

1197. The Clerk may appoint a deputy, to be approved by the Court of Common Pleas, a record of whose appointment shall be made in the Clerk's office. Before entering on the duties of his appointment such deputy must take the oath prescribed by the Constitution and the oath of office in respect to duelling; and when so qualified the deputy shall perform any and all of the duties appertaining to the office of his principal. Such appointment shall be evidenced by a certificate thereof, signed by the Clerk, and shall continue during his pleasure. He may take such bond or security from his deputy as he shall deem necessary to insure the faithful discharge of the duties of the appointment, but shall in all cases be answerable for the neglect of duty or misconduct in office of his deputy.

May appoint
a deputy: his
oaths: evi-
dence of ap-
pointment,
etc.

Civ. '02, §
906.

v. Hopkins, 15 S. C., 156; *King v. Belcher*, 30 S. C., 381; 9 S. E., 111; *Miller v. George*, 30 S. C., 527; 9 S. E., 659.

1198. Every Clerk shall, except on public holidays, maintain constant attendance, either personally or by deputy, in the Clerk's office, which shall be kept in a room provided for that purpose in the court house. He shall discharge all the duties required by law, or the rules of Court, from time to time, or that may be incident to the office. He shall make a fair and correct entry and record of the proceedings in the Courts and other matters pertaining to his office in the various books required to be kept, conforming to the mode prescribed by law, order of the Court or usage of the Court. He shall file in their proper order original papers and causes instituted or other authorized proceedings, and

Office days
and hours;
duties, etc.

Civ. '02, §
907.

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preserve with care all papers, books and furniture
ing to or connected with his office.

As to record of proceedings.—Williams v. Jones, 2 Hill, 555;
Coward, 3 Hill, 4; Jones v. Stiefer, 1 Speer, 15; Schoonmaker
Rich., 173.

Clerical reg-
ulations of of-
fice: cases for
papers: seal;
record books.

Civ. '02, §
908.

Sec. 1199. The office of every Clerk shall be fu
with suitable cases, with proper partitions, for filing
under appropriate labels, well secured from dust by
of shutters filled with glass, to slide on rollers, wit
painted on the outside, indicating the kind of recor
on the case inside, label the number roll (or if in S
the term) of the papers contained within each p
The lower part of the cases shall be divided into con
apartments for the books of the office, with doors
with proper fastenings, with labels painted outside
ing the particular descriptions of records contained
division, that is to say: "Journals," "Dockets," "I
After Judgment," "Miscellaneous Records" and "Re
Department." Each office shall be furnished with a
office, with a proper device, a screw, and such blank
for the various records as may be needed from time t
to be procured by the Clerk, and the expenses
defrayed by the County Board of Commissioners.

Clerk to have
charge of the
Court House,
penalty for
keeping open
at night.

Civ. '02, §
909.

Sec. 1200. Every Clerk shall have charge of the
house within his County; open the same, when requir
public use, and at all other times keep it closed; a
every night any court house shall be kept open, the
shall be liable to a penalty of five dollars, for the use
County, to be recovered by indictment.

To file orig-
inal paper of
records, etc.
Filing of orig-
inal papers in
the Sessions;
endorsement
of other pa-
pers, manner
of filing. La-
bels; endorse-
ments to be
made upon
the record;
on bills of
indictment;
on Sessions
papers; on ex-
ecutions.
Original pa-
pers in dow-
er, how filed

Civ. '02, §
910.

Sec. 1201. The original papers of record in each
wherein judgment may be signed or confessed, or decre
be entered, shall be filed, according to the number of
ment, in the book of abstracts of judgments, or of d
placing all the papers in each cause together. Or
papers in the Sessions shall be filed according to the
at which they were disposed of, alphabetically arrang
each term, according to defendants' names, all relat
the same cause together. Other papers required
returned to, or kept in the office, shall be endorsed wi
character, date of filing, and number on file, numbering
kind, from one onward, and keeping all relating to the

A. D. 1812.

1. Court of
Common Pleas
Journal.

A short statement of each case called, and manner
position, and every order of reference, each under a
order, as far as may be; record of the names of the
composing each jury; and all changes therein, and de
ing the jury who may try each cause under the title
together with an exact copy of their verdict; and v
upon trial before Jury or Judge, or by default, and
default, whether in proof or reference, and all asses
each in words at length, and not in figures; awar
firmed; confessions of judgment during Court; fina
ment; copies of all orders passed, or motions grant
other matters specially ordered by the Court to be e

2. Court of
General Ses-
sions Journal.

2. "COURT OF GENERAL SESSIONS JOURNAL."—To be
in a separate volume, after like manner, as far as m
and including the finding of the Grand Juries on bill
out, with their other presentments, and sentences
Court on parties convicted; orders of estreat; fines in
and other matters specially ordered for entry by the

3. Indexes to
Journals of
Common Pleas
and General
Sessions.

3. "INDEXES TO THE RESPECTIVE JOURNALS OF THE C
PLEAS AND GENERAL SESSIONS."—To be alphabe
arranged at the end of each volume, which Index
always be brought up by the first day of each succ
term.

4. Rules.

4. "RULES."—In which shall be entered every ca
filing the complaint, showing, in separate columns, na
Parties, Plaintiff's Attorney, Defendant's Attorney. o
filing Complaint, date of Answer, Demurrer, etc., R
tion, and date of order for Judgment.

5. Calendars;
entries in
made by
Clerk: Ses-
sions Calen-
dar, to con-
tain what:
Contingent
Calendar, to
contain what.

5. "CALENDARS."—For Civil Causes, Sessions, and
tingent, to be kept in separate volumes, for the use
Court; and a Bar Calendar in a single volume, to be m
and before the meeting of the Court, and the Calen
be kept up as the pleadings are made up, or cases occu
ing the term for both the Court and the Bar. No caus
be entered on the Calendar, except by the Clerk.
deputy, nor by him, until the pleadings are made up
Calendars for the Court shall be regularly preserve
record of the Court, and shall show, in separate co
the number of cause, number of term, names of p
cause of action, Plaintiff's Attorney, Defendant's Att
(and, in the Sessions, Prosecutor's name,) Order of t

A. D. 1912.

A Confession of judgment is not void if not entered on this book—
parte Graham, Plyler v. Robertson, 54 S. C., 163; 32 S. E., 67.

10. Fines
 and Forfeitures.

10. "FINES AND FORFEITURES."—In which shall be entered the names of all persons fined by the Court, or whose recognition may be estreated, with separate columns, showing names, cause of fine, when fined, by whom fined, amount of fine, to whom due, when collected, by whom collected, why not collected, when paid over, and to whom.

11. Magistrates
 and Constables' Roll.

11. "MAGISTRATES' AND CONSTABLES' ROLL."—In which shall be entered the name of each Magistrate and Constable, on taking the oaths of office, representing, in separate columns, the names, date of qualification, office, expiration of term, a genuine signature, and, in the case of a Constable, the names of the sureties to his bond, with an Index of each name, alphabetically arranged.

12. Estrays.

12. "ESTRAYS."—In which book shall be entered, in separate columns, date of entry, kind of entry, description by appraisers, and their names, name of the Magistrate, appraiser's valuation, by whom taken up, when sold, and disposition of proceeds.

13. Book of
 Orders appointing
 Receivers of
 Judgment
 Debtors.

13. "BOOK OF ORDERS APPOINTING RECEIVERS OF JUDGMENT DEBTORS."

Code of Procedure, § 324.

14. Miscellaneous Index: names of
 aliens who
 have taken
 steps toward
 naturalization,
 persons
 concerning
 whom proceedings
de lunatico inquir-
rendo may be
 instituted,
 aliens naturalized,
 and certificates,
 etc., concerning
 corporations,
 etc., to be entered in.

14. "MISCELLANEOUS INDEX."—In which shall be entered, alphabetically, the names of all aliens who have taken any step towards naturalization; all persons concerning whom proceedings *de lunatico inquirendo* may be instituted; names of aliens naturalized; certificates and papers concerning corporations, and all matters required by law to be recorded and not otherwise provided for, referring to papers on file by number and label.

15. "A RECORD BOOK OF PARDONS."—In which he shall record the names of persons pardoned in his County, arranged alphabetically, the offenses for which they were convicted, the date of conviction and the date of pardon.

Sec. 1203. The preceding books, required to be furnished and kept by the Clerk, shall be of the following sizes, respectively:

Civ. '02, § 1203.

Pardons.

Size of books
 required to be
 kept.

1. Court of Common Pleas Journal, General Sessions Journal, Rules, Fines and Forfeitures, and Estrays, each of the size denominated "Demi;" the Journals containing not

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n six quires each, and the other books not less than quires each.

endars, Sessions Index, Confessions of Judgment Clerk, Magistrates' and Constables' Roll, Book of appointing Receivers of Judgment Debtors, and aneous Index, each of the size denominated "Broad the first named containing not less than two quires, e remaining books not less than four quires each.

eadings and Judgments, in a volume not less than the nominated "Medium," containing not less than six

bstract of Judgments, of the size denominated "Super" containing not less than four quires.

dexes to preceding volumes, of the size denominated "Demi," containing not less than six quires.

1204. To prevent false and erroneous entries in the ls of the Courts of Common Pleas, it shall be the f the Clerks of the said Courts, respectively, on each evious to the adjournment of the Court, to read over Judge who may preside the minutes or entries which ave been made during the day in the said Journal.

To read Minutes to Judge before adjournment daily.

Civ. '02, § 913.

n form of verdict corrected before recording.—Devore v. Gelger, 41 3; 19 S. E., 288.

1205. The Clerk shall not in any case permit either oks or records to be removed from his office, though l be his duty at all times to permit either party to a r his agent or attorney, to inspect or copy, during the cy of suit, any papers pertaining thereto, without , or to furnish on application certified copies thereof yment of fees per copy sheet.

Books and records not to be removed from office; parties and attorneys may inspect, etc.

Civ. '02, § 914.

erger v. McSween, 14 S. C., 35.

1206. Clerks may administer oaths, take depositions idavits, and also renunciations of dower. The Clerk y County in which the office of Master does not exist y consent of parties, sign orders of reference in vaca- and shall also have power, upon proper proceedings to grant orders for the partition of real or personal and for the admeasurement of dower, in cases where ght of partition or dower is not contested, or the same en ascertained by a decree of the Court. All proceed- nder such orders shall be filed at the next succeeding

May administer oaths, etc., sign orders of reference, grant orders in partition and dower; when.

Civ. '02, § 915.

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term of the Court for the adjudication of the President Judge, until which adjudication all equities of the parties shall be reserved.

May act as
attorneys; ex-
ception.

Civ. '02, §
916.

Sec. 1207. They shall have the privilege of acting as attorneys and solicitors in all the Courts in the State, except in the Courts of their respective Counties, provided they shall have complied with the requirements of law regulating the admission of persons to practice as attorneys, solicitors and counsellors in the Courts of this State.

Not to act
as Sheriff or
Deputy Sher-
iff: exception.

Civ. '02, §
917.

Sec. 1208. They shall not act as Sheriffs or Deputy Sheriffs, except as provided by Section 1217.

To enforce
jury laws.

Civ. '02, §
918.

Sec. 1209. It shall be the duty of the Clerk, diligently and uprightly, to put in execution the laws of force directing the drawing, balloting, empanelling, and summoning of jurors, so far as his co-operation may be required.

To make roll
of Jurors and
Constables,
showing the
amount due
each, etc.,
copy to be
furnished the
County Com-
missioners, to
furnish cer-
tificates to Ju-
rors and Con-
stables: form
of certificate;
certificates to
be signed by
the Judge or
Sheriff in his
absence.

Civ. '02, §
919.

Sec. 1210. Immediately after the adjournment of any Court of Common Pleas and General Sessions, the Clerk thereof shall make out a roll of the grand jurors and petit jurors and constables who shall have attended the same, exhibiting the name, time of service, and amount due each juror and constable, and the term at which the service was performed, and shall enter the same on the journals of the court of the term when such service shall be performed, and shall forthwith transmit to the County Commissioners of the County a certified copy of such roll, and shall furnish each juror and constable with a certificate, in the following form:

"STATE OF SOUTH CAROLINA:

"I, A B, Clerk of the Court of Common Pleas and General Sessions for County, in the said State, do certify that attended as a juror, (or actually served as a Constable, as the case may be,) for said County days at Term, A. D., and is entitled to receive for the same dollars and cents;" which certificate shall be signed by the Clerk of the Court, who shall issue the same, and be countersigned by the presiding Judge; or, in any case where a Judge may not be present during the term, the certificate shall be countersigned by the Sheriff of the County; and, in addition to what is above described, shall set forth such absence of the

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; and all certificates so issued and executed shall be

1211. Whenever it shall so happen that any Circuit in this State cannot be held at the time appointed, in consequence of the absence or indisposition of the Judge, it shall be the duty of the Clerk of such Court, or his deputy, to adjourn Court in the absence of the Judge. Civ. '02, § 920. to adjourn Court in the absence of the Judge.

and adjourn the same from day to day, until the Judge shall meet, or until he may receive due notice that the Judge will not be present, when he shall adjourn the same on the first day of the succeeding term.

1212. It shall be the duty of the said Clerk to issue executions, bench warrant, or other process, issuable, directed to be issued, by the Courts of Sessions, in the name of the Attorney-General or Solicitor of the Circuit, to sign all judgments officially. Civ. '02, § 921. To issue executions, bench warrants, and all other processes; to sign all judgments officially.

also to issue all rules and notices ordered in the Common Pleas, and test, in his own name, under the seal of the Court, all writs and processes issued either in the Common Pleas or Sessions, and to sign officially all judgments, and to certify the time when each is signed and entered.

testing writs.—Miller v. Hall, 1 Speer, 1; Smith v. Affanassieff, 2 Hill, 34; State v. Thayer, 4 Strob., 286.

1213. Whenever security for costs may be ordered to be given, or may be tendered, by any plaintiff, in vacation or term time, the Clerk shall witness the signature of the plaintiff, and shall, in the first instance, judge of the sufficiency of the security; the form of the undertaking to be given, and the rule of the Court on that subject if there be no law. To witness and approve security for costs; form of. Civ. '02, § 922.

money deposited, compliance with order.—Fenet v. Wilson, 3 Hill, 340. Plaintiff's attorney, not.—Bomar v. R. R. Co., 30 S. C., 450; 9 S. E., 107. Clerk must witness and approve security.—Furman v. Harman, 2 McC., 107; Boyd v. Graham, 2 Hill, 558; Cummings v. Wingo, 31 S. C., 427; 10 S. E., 107; McCarley v. Turner, 33 S. C., 161; 11 S. E., 645. As to form of signature of the Clerk as witness. See Garrett v. Niel, 49 S. C., 27 S. E., 512. Form of undertaking prescribed.—Boyd v. Graham, 2 Hill, 558; Rule of Practice Circuit Court, No. 10.

1214. The Clerk, as to lands within his County, and as to be recorded in his office or in the office of the Registrar of Mesne Conveyances of his County, is authorized to grant writs of *dedimus potestatem*, directed to two or more commissioners for taking renunciations of dower, or taking oaths of the execution of all deeds under seal, where the May grant writs of *dedimus potestatem*; for what purposes. Civ. '02, § 923.

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persons to make such renunciations, or prove such deeds, reside without the limits of this State.

Must enter or permit to be entered satisfaction of judgments and mortgages; when.

Civ. '02, § 924.

Sec. 1215. It shall be the duty of the Clerk, or of the Register of Mesne Conveyances, as the case may be, in whose office any judgment or mortgage may be of record, on the receipt of the fees, to permit any judgment creditor, or his or her attorney, or any mortgagee, as the case may be, to enter satisfaction thereof; or if any Judge shall order satisfaction to be entered thereof, to enter of record satisfaction accordingly.

Waring v. Miller Batting Co., 36 S. C., 310; 15 S. E., 132. For power of Clerk to appoint guardians *ad litem*, under Act 1898, XXII, 688, see Code Civil Procedure, Section 136.

To act as Judge of Probate when the office is vacant.

Civ. '02, § 925.

Sec. 1216. In case of any vacancy in the office of Judge of Probate, the Clerk of the County shall take charge of said office, and all papers therein, and discharge the same duties, receive the same fees, and be subject to the same liabilities, as by law provided for a Judge of Probate, until a Judge of Probate shall be appointed by the Governor or elected and commissioned for such County.

To act as Sheriff when that office is vacant.

Civ. '02, § 926.

Sec. 1217. In case of vacancy in the office of Sheriff, the Clerk of the County shall take possession of the jail of such County, and charge of the prisoners confined therein, and also possession of the Sheriff's office and the papers therein, until the Coroner of such County may take charge of the same or until a Sheriff shall be appointed by the Governor or elected and commissioned for such County.

To enter renewals and satisfactions of executions; where.

Civ. '02, § 927.

Sec. 1218. Whenever any execution shall be returned for renewal, or as satisfied, by any Sheriff, the Clerk shall enter such renewal or satisfaction in the appropriate column of the abstract book, and in case of satisfaction shall enter the same on the original record; and it shall not be lawful for the Clerk to affix the seal of the Court to any renewed execution unless the one previously issued shall have been delivered to him, or unless authorized by a Judge's order.

Clerk is not presumed to have violated the law in renewing execution from his omission to so enter renewal and in absence of proof of return of previous one to him; he is rather presumed to have done his duty.—*Douglas v. Owens*, 5 Rich., 534.

To administer oaths to Magistrates and transmit list of to the Secretary of State; when.

Civ. '02, § 928.

Sec. 1219. The Clerk shall administer the oaths of office required to be taken by Magistrates appointed within his County, on their application, within ninety days after such

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ment; and on the first day of November, annually, shall transmit a list of the names of Magistrates who qualified during the preceding year to the office of the Secretary of State at Columbia.

Sec. 1220. The Clerk shall administer the oaths of office required by law to be taken by a Constable, on his entering bond, as prescribed, of the sufficiency of the surety to

Duties r
specting oati
and bond
Constabl
etc.

which the said Clerk shall judge, to be filed in the office of

Civ. '02,
929.

the Clerk. The Constable shall furnish a genuine signature of same in the book prescribed, whereupon the Clerk shall

issue an official certificate of such qualification. When the Constable summoned in writing by the Sheriff to attend

and shall fail to appear, according to the summons, such default shall be noted by the Clerk, and such other proceed-

ing had as in cases of jurors in default, or as the Court may

order.

Sec. 1221. In all cases the Clerk shall render his account against the County for fees in State cases under oath, to be

Accoun
against Cou
ty: how to
rendered.

made and subscribed before the Judge, Magistrate or other

Civ. '02,
930.

person authorized to administer an oath, in which the nature of the services shall be fully set forth, and, if in the Ses-

sion, the name of the party, offence and termination thereof, shall not be entitled to receive any fees from the County

in any case where the defendant is convicted, unless he make

oath that the costs in such case have not been recovered out of the defendant and that he is unable to pay costs. And he

shall, in all cases, further make oath that all fines and penalties theretofore collected by him have been faithfully and

completely paid over to the County Treasurer.

Sec. 1222. In all cases where any Sheriff, Coroner, Magistrate or Constable, shall be required to obtain the

Official ce
rtificates to
furnished co
tain office
by Clerk.

official certificate of any Clerk to his contingent account, verifying any matters required by law to be certified, the

Civ. '02,
931.

Clerk shall furnish such certificates, according to the facts, on application and payment of fees.

Sec. 1223. It shall be the duty of the Clerk to furnish, at his own charge, to the County Commissioners, when required, an official certificate of all liens that may be of record in the office, on the property of any individual who may be required as surety to the bond of any public officer, whether by judgment, mortgage, or otherwise.

To furni
certificates
liens on pr
erty of p
sons offer
as surety
bonds of p
blic officers.

Civ. '02,
932.

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To keep weights and measures; the same to be purchased by the Governor.

Civ. '02, § 933.

Sec. 1224. The Clerk of the Court of Common Pleas and General Sessions of each County in this State shall furnish, and is required to keep in his office, the weights and measures established by law, which shall be the standards of all other weights and measures in said County, and to which any person shall have free access to test the same; and the Governor of the State is authorized and required to purchase such standard weights and measures out of the fines and forfeitures incurred in the respective Counties where such weights and measures are to be kept.

Clerk to render annual accounts to Co. Commissioners: penalty for neglect.

Civ. '02, § 934.

Sec. 1225. It shall be the duty of the Clerk to return to the County Commissioners, on or before the last day of October in every year, an account, upon oath, in duplicate, of all fines and forfeitures inflicted in their respective Courts during the preceding year, and of the amounts had and received by them, and of the manner in which said fines were disposed of, under penalty of two hundred dollars, to be recovered against any Clerk for default herein by action. And it shall be the duty of the County Commissioners to request the Attorney-General or Solicitor, as the case may be, to sue for and recover the said sum of every Clerk that may fail to render such account.

Responsible for furniture and papers in his office; penalty for not transferring to his successor; liable for damages to same.

Civ. '02, § 935.

Sec. 1226. Every Clerk shall be held responsible for the books, papers, and furniture in his office; and upon his retiring from office, or death, he or his representatives shall be bound to transfer all such books, papers and furniture to his successor, immediately after such successor shall have entered upon the duties of his office. Before surrendering such books, papers, and furniture, the Clerk so retiring from office, or his representative, shall be entitled to require from such successor, (who, under like penalty, shall be bound to execute the same,) a receipt in writing therefor, which shall specify the number, title, and condition of every book, the number of records, as appears by the enrollment, and such other classification as it may be convenient to adopt from the arrangement of the office, all the packages of papers in office, and the description and condition of each article of furniture; a duplicate of which receipt shall also be given, and shall, by the Clerk so retiring from office, or his representatives, be filed in the office of the County Commissioners for the County; and every Clerk, having retired from office,

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representatives, shall be liable to an action, in the County, for damages for any books, papers, and re, which shall be proven to have been in his possession and shall not appear, by such receipt, to have been transferred to his successors, or, having been so transferred, appear to have been, through neglect, injured during continuance in office.

227. All fines and penalties imposed and collected in the Circuit Court of General Sessions in criminal causes shall be forthwith turned over by the Clerk of said Court to the County Treasurer of the County wherein the same were imposed: *Provided*, That when, by law, any person is liable, as informer, to any portion of the fine or penalty imposed and collected, the same shall be immediately paid to him. They shall also pay, monthly, to the County Treasurers of their respective Counties, for the use of the County, all such moneys as may have come into their hands from persons representing, publicly, plays and shows within the limits of their said Counties.

Fines, etc., to be turned over forthwith; to pay over annually taxes received from plays and shows.

Civ. '02, § 936.

228. Every Clerk of the Court is required on the first Wednesday in each month, or within ten days thereafter, to make, in writing, to the Auditor and Treasurer of the County, a full and accurate statement of all moneys received on account of licenses, fines, penalties and forfeitures during the past month.

To report to Auditor and Treasurer.

Civ. '02, § 937.

229. If any Clerk shall fail to pay over any moneys received by him by order or permission of the Court, within five days after demand of the person entitled to receive the same, he shall forfeit and pay five per cent. per month until the same shall be paid over, to be recovered, together with such amount received, by action on his official bond, besides being subject to rule and attachment as for contempt.

Penalty for not paying over funds.

Civ. '02, § 938.

ASSMAN, 38 S. C., 273; 16 S. E., 888. Rule not proper remedy. LAKE, 5 S. C., 341; Remedy: FOWKE v. THOMPSON, 5 Rich. Eq., 491.

230. If any Clerk fail to pay over fines and forfeitures received by him, within five days after demand of the person entitled to receive the same, he shall forfeit and pay five per cent. per month until the same shall be paid over, to be recovered, together with such amount received, by action on his official bond, besides being liable to rule and attachment as for contempt. If he shall fail to give to some

Penalty for not paying over fines and forfeitures. Penalty for not giving notice to County Commissioners.

Civ. '02, § 939.

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member of the Board of County Commissioners the notice required by law to be given, he shall forfeit and pay double the amount so detained without notice.

To account
for moneys at
each session.

Civ. '02, §
940.

Sec. 1231. At each stated session of the Court of Common Pleas, the Clerk thereof shall present an account to said Court of all moneys remaining therein, or subject to the order thereof, stating particularly on account of what cause or causes said moneys are deposited, which account, and the vouchers thereof, shall be filed in Court.

Bill of costs
to be attached
to executions.

Civ. '02, §
941.

Sec. 1232. In every case in which a Clerk of the Court of Common Pleas shall issue an execution, he shall attach thereto a bill of each item of costs therein charged, and shall, on application of defendant in execution, tax all costs which accrue to the Sheriff for services on such execution.

How records
of mortgages
on lands sold
by order of
Court shall
be marked
satisfied.

Civ. '02, §
942.

Sec. 1233. Upon the confirmation by the Circuit Court of the report of the Master or other officer making sale of lands pursuant to decree of foreclosure, it shall be the duty of the Clerk of the said Court to enter upon the record of the mortgage so foreclosed release of lien thereof in the form prescribed in Section 1234: *Provided*, That nothing herein shall be construed to satisfy any unpaid portion of the debt secured by said mortgage.

Form of en-
dorsement to
be made by
Clerk.

Civ. '02, §
943.

Sec. 1234. That the release of lien entered by the Clerk under Section 1233 shall be made in writing on the margin of the record book in which the mortgage to be satisfied is recorded, and opposite to said mortgage, and shall be in the following form: "Lien released by sale under foreclosure the.....day of, A. D. 19.. See judgment roll No....;" and signed by the Clerk.

The Clerk shall also discharge the duties hereinafter prescribed in Article V of this Chapter for Register of Mesne Conveyance, in all Counties except Charleston and Greenville.

Clerks of
Court to keep
record of all
persons elect-
ed to office.

1905, XXIV,
964.

Sec. 1235. Each of the Clerks of Courts of the various Counties in this State shall be required to keep a book in his office in which he shall record the name of each person heretofore or hereafter elected to any office, together with date of their election, whenever such facts are obtainable: said book to be furnished by the Board of County Commissioners of each County, without cost to said Clerk of Court.

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ARTICLE V.

THE REGISTER OF MESNE CONVEYANCES.

Registers for Charleston, Greenville and Spartanburg Counties; how elected; term of office.
Clerk of Court to perform duties of in other Counties.
Official bond and oath of office, etc.
Register may appoint Deputy.
Prerequisites to recording deeds, etc.
Probate of certain deeds validated.

SEC.

1242. Conveyances of land not to be recorded without Auditor's endorsement.
1243. How instruments to be recorded; books of record and indexes, etc.
1244. To give certified copies of records and certificates as to encumbrances, etc., liability for incorrectness of.
1245. Auditor to take charge of office in case of vacancy.

Section 1236. The Register of Mesne Conveyances for Charleston County shall be elected by the qualified voters of said County at the general election to be held in the year one thousand nine hundred and two, and at every alternate general election thereafter, and shall hold office for four years until his successor is elected and qualified. The Register of Mesne Conveyances for Greenville County shall be elected by qualified voters of said County at the general election to be held in 1908, and at every alternate general election thereafter, and shall hold office until his successor is elected, commissioned and enter upon the duties of his office.

The Register of Mesne Conveyances for Spartanburg County shall be elected by the qualified voters of said County at the general election to be held in 1908, and at every alternate election thereafter, and shall hold office for four years and until his successor is elected and qualified.

Section 1237. The office of Register of Mesne Conveyance shall exist only in the Counties of Charleston, Greenville and Spartanburg; and every other County in the State, the duties prescribed by this Code for such officer, shall be performed by the Clerk of Court, who shall have all the powers and emoluments given the Register of Mesne Conveyance in Charleston, Greenville and Spartanburg Counties.

Under the Act of 1896 the offices were distinct in these Counties, though the duties were performed by the same officer.—Waring v. Miller, etc., Co., 10 S. C., 310; 15 S. E., 182.

Section 1238. The Register of Mesne Conveyances in the Counties of Charleston and Greenville, before entering on

Register of Mesne Conveyance for Charleston, Greenville, and Spartanburg Counties.

Civ. '02, 1944; 1908 XXV, 1020.

The Clerk of Court in other counties to perform the duties here imposed on such Registers.

Civ. '02, 1945; 1908 XXV, 1020.

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Official bond
and oath of
office, etc.Civ. '02, §
948; 1908,
XXV, 1020.

the duties of office, shall give bond, with three good sureties, to be approved by the County Board of Commissioners of said Counties, respectively, and of the form required by law. the Register of Charleston County in the sum of five thousand dollars and the Register of Greenville County in the sum of one thousand dollars; and the Register of Mesne Conveyance for the County of Spartanburg shall give bond in the sum of five thousand dollars; said bonds to be lodged in the office of the State Treasurer; and shall take the oath of office required by the Constitution, and also the additional oath prescribed in Sections — and —, indorsed and subscribed on his commission, and enter the same, with the endorsement, on the records of the office; the said office of the Register for Charleston County to be in the fireproof building in the city of Charleston, and to be kept open from 9 o'clock a. m. to 6 o'clock p. m. every day except Sunday and public holidays.

Register
may appoint
Deputy.

Sec. 1239. In Charleston, Greenville and Spartanburg Counties the Register of Mesne Conveyances may appoint a deputy in the same manner that Clerks of the Court are authorized to do.

Prerequisites
for recording
deeds, etc.Civ. '02, §
948; 1908,
XXV, 104;
1909, XXVI,
84; 1910,
XXVI, 621.

Sec. 1240. Before any deed or other instrument in writing can be recorded in this State, the execution thereof shall be first proved by the affidavit of a subscribing witness to said instrument, taken before some officer within this State competent to administer an oath. If the affidavit be taken without the limits of this State, it may be before a commissioner or commissioners appointed by *dedimus* issued by the Clerk of the Court of Common Pleas of the County in which the instrument is to be recorded, or before a commissioner of deeds of this State, or before a Clerk of a Court of record, who shall make certificate thereof under his official seal, or before a Justice of the Peace, who must append to the certificate his official seal, or before a Notary Public, who shall affix thereto his official seal within the State of his appointment, which seal shall be a sufficient authentication of his or her signature, residence and official character, or before a minister, ambassador, consul-general, consul or a vice-consul or consular agent of the United States of America. Where the affidavit of a subscribing witness can not be had by reason of the death, insanity or absence from the

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such witness, then the instrument may be recorded in proof of such fact and of the handwriting of the party who signed the instrument, and of the subscribing witness by proper affidavit; the proof in every case to be made with the instrument.

This Section shall regulate the probate of all deeds or instruments in writing hereafter executed, and the validity of any and all deeds or other instruments in writing executed prior to the first day of March, A. D. 1909, whether recorded or not on that day, which are in conformity with the requirements of this Section are validated and their probate confirmed.

1241. Any and all deeds or other instruments in writing which may have been executed prior to the 24th day of February, 1908, been probated by either a Minister, Ambassador, Consul-General or Notary Public here, and the same shall be validated and their probate confirmed.

Probate of
certain deeds
validated.

1908, XXV,
1041.

Recording is not to perfect deed, but to publish it.—*Dawson v. Dawson*, 243. Probate of deed executed in the State, before Magistrate, not valid.—*Woolfolk v. Graniteville Man. Co.*, 22 S. C., 382. Probate not be endorsed on deed nor appear in registry before Act 1889.—*Hartley*, 1 Hill Ch., 106. Registry without probate no notice.—*W. Graniteville Man. Co.*, 22 S. C., 387. But witness need not sign deed.—*Fuller v. Missroom*, 35 S. C., 314; 14 S. E., 714. Mechanic's lien not be probated.—*Murphy v. Valk*, 30 S. C., 262; 9 S. E., 101. Mortgage must have at least one witness, and probate, to entitle it to record.—*McGowan v. Reid*, 27 S. C., 262; 8 S. E., 337. Where chattel mortgage under \$100 probating is not a prerequisite to indexing.—*Milford v. S. C.*, 110; 39 S. E., 283.

Commission of the official title of officer taking the probate does not affect validity.—*McCreery v. Coggeshall*, 74 S. C., 62; 53 S. E., 978. A party to, or interested in deed, cannot take the probate.—*Whetstone*, 79 S. C., 362; 60 S. E., 703.

1242. Before any deed of conveyance of real property can be placed on record in the office of the Register of Deeds, Conveyance or Clerk of Court it must have thereon the endorsement of the County Auditor that it has been recorded in his office.

Endorsement
of Auditor re-
quired as to
record in his
office before
recording by
Clerk or Reg-
ister

of Mesne Conveyances is to be kept in bound books, of the size not less than "Medium," kept for that purpose at which they may be brought for settlements, and all conveyances of dower, and other writings made by him who situate in his County, which

Civ. '02. §
949.

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To record marriage settlements, conveyances, renunciations of dower and inheritance, etc. Their execution to be proved by affidavit of a subscribing witness. Record and proof to be recorded one month after lodgment. Certificate of Register thereon. Two indexes to Registry Books to be kept.

Civ. '02, § 950.

may be lodged with him to be recorded: *Provided*, That the execution of every such writing shall first be proved by affidavit of a subscribing witness, or otherwise, as herein before provided. Every such writing shall be recorded within one month after its lodgment, and the recording shall bear even date with the lodgment; on every such writing shall be endorsed a certificate, to be signed by the Register or his deputy, specifying the time when, and book and page where, it was recorded; in the book, the names of the parties and nature of the writing shall precede the registry and after it shall follow the date of the registry and a memorandum of the person to whom the original writing has been delivered. To the books of the registry, reference shall be had by means of two indexes, each of which shall be in a separate book of the size denominated "Long Cap." book containing the year of registry, names of parties, book, and page; the alphabetical arrangement of one being according to the names of the parties who executed the writings, and of the other, according to the names of the parties to whom they were executed; each index embracing a number of the volumes of registry, not less than ten.

Different sets of books shall be provided by the Clerks and Registers of Mesne Conveyances of the several Counties for the recording of chattel mortgages and mortgages on real estate, in one of which sets all chattel mortgages shall be recorded, and in the other set all mortgages on real estate shall be recorded.

The Clerks and Registers of Mesne Conveyances of the several Counties shall provide separate indexes for the different sets of books provided for him.

It shall be a sufficient record of any chattel mortgage, where the amount secured is not more than one hundred dollars, to enter upon an index book to be kept for that purpose by Register of Mesne Conveyances, the names of mortgagor and mortgagee, the amount and character of the debt secured, a brief description of chattels pledged, the date of said mortgage and of the maturity of said debt, and the date of presentation of such mortgage for record; and the fee to be charged by the Register of Mesne Conveyances shall be the same as now provided by law for the

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g of liens on crops for advances for agricultural
S.

mortgages for less than \$100 need not be probated before being
Milford v. Alken, 61 S. C., 110; 39 S. E., 283.
ct indexing of a deed does not impair the rights of those claiming
-Mitchell v. Cleveland, 76 S. C., 433; 57 S. E., 88; Association v.
S. C., 251; 45 S. E., 167. What is sufficient indexing.—Bryant v.
73 S. C., 224; 51 S. E., 535; 53 S. E., 368. Presumption that
s in proper County.—Charleston Live Stock Co. v. Collins, 79 S. C.,
E., 944.

244. The Register of Mesne Conveyances, or his
shall be required, on application, to give a certified
any writing recorded in his office, the fees for the
ing first paid in advance, if required or tendered,
ase may be; or a certificate that no deed, conveyance,
gage, or other transfer of any particular parcel of
r tenements, by any particular person, is registered
ffice; and if the Register or his deputy shall furnish
rect transcript of any deed recorded, or an incorrect
te, he shall forfeit and pay to the party the damages
y accrue in consequence thereof.

To give cer-
tified copies
of records on
payment of
fees. To pay
damages for
making incor-
rect trans-
cripts or cer-
tificates.

Civ. '02, §
951.

245. In case of any vacancy in the office of Register
e Conveyances in Charleston, Greenville and Spar-
Counties, the Auditor of the County in which such
shall occur shall take charge of said office and all
herein, and discharge the same duties, receive the
es or salaries and be subject to the same liability,
law provided for a Register of Mesne Conveyances,
Register of Mesne Conveyances shall be elected and
ioned for such County.

Auditor to
take charge in
case of va-
cancy.

Civ. '02, §
952; 1908,
XXV, 1021.

Duties, pay,
etc.

Period.

ARTICLE VI.

THE JUDGE OF PROBATE.

ction and term of office.
rancies in; how filled.
rk of Court to act until
vacancy filled.
en office of Clerk vacant;
udge of Probate to act
ntil vacancy filled.
nd and oath of office.
make search, furnish
opies, etc.; fees allowed.
keep seal of office; descrip-
ion of.

- Sac.
- 1253. Books to be kept.
 - 1254. Manner of filing papers; in-
dex to papers to be kept.
 - 1255. Clerk to file account of
moneys remaining in Court.
 - 1256. May administer oaths, etc.
 - 1257. Responsible for property of
office; to transfer to succe-
sor and take receipt.
 - 1258. To discharge duties of Master
in Anderson and Orangeburg
Counties.

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Elections and
term of office.Civ. '02, §
953.

Section 1246. The Judges of the Probate Court shall be elected by the qualified electors of the respective Counties for the term of four years. The election for said office shall be held at each alternate general election, reckoning from the year 1890.

Vacancies;
how filled.Civ. '02, §
954.

Sec. 1247. All vacancies in the office of Judge of Probate shall be filled in the manner prescribed by Article V Section 11, of the Constitution of the State.

If unexpired term exceed one year, the Governor cannot fill vacancy.—*Wilmire v. Langston*, 11 S. C., 381.

Clerk of
Court to act
until vacancy
filled.Civ. '02, §
955.

Sec. 1248. In case of such vacancy the Clerk of the Circuit Court of the County shall take charge of the said office and all papers therein, and discharge the same duties and receive the same fees, and be subject to the same liabilities as by law provided for a Judge of Probate, until such vacancy shall be filled by appointment of the Governor, or by an election, as the case may be.

When office
of Clerk va-
cant, Judge of
Probate to act
until vacancy
filled.Civ. '02, §
956.

Sec. 1249. In case of any vacancy in the office of the Clerk of Court of General Sessions and Common Pleas, the Judge of Probate of the County shall take charge of said office and all the papers therein, and discharge the same duties, receive the same fees, and be subject to the same liabilities, as by law provided for such Clerk, until such vacancy be filled by appointment of the Governor or by election.

Bond and
oaths of of-
fice.Civ. '02, §
957.

Sec. 1250. Judges of Probate before receiving their commissions shall take the Constitutional oath of office and the several additional oaths required of such officers by Sections — and —, and shall enter into bond, conditioned for the faithful discharge of the duties of the office, which shall be duly executed, approved, certified, recorded and filed, as prescribed in Chapter XVIII, Article I. The bonds of the Judges of Probate for Charleston, Spartanburg and York Counties, respectively, shall be in the sum of ten thousand dollars; for Williamsburg County in the sum of two thousand dollars; for Horry County, two thousand five hundred dollars; for Edgefield County, three thousand dollars, and for all the other Counties, respectively, five thousand dollars. They shall qualify within thirty days after the election is declared.

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1251. It shall be the duty of the Judge of Probate, applied to, to search for and examine any book, or paper belonging to his office, and to furnish any wanting the same with a copy or copies of any part of, or of the whole or any part of any proceedings

To make search, furnish copies, etc. Fees allowed.

Civ. '02, § 958.

ing any estate or estates in his care or custody as Judge of Probate aforesaid, and to certify the same; for which for his services he shall be allowed at the rate of nine cents for each copy sheet of ninety words the same may be, and fifty cents for every certificate he shall so give.

1252. Every Judge of Probate shall keep in his office, in a circular form, upon the center of which shall be engraved, in capital letters, the word "Seal," and on the reverse, the words, "Judge of Probate's office of . . . County," which shall be regarded as the seal of his office and which he shall impress upon all papers issued from his office and affix his name to such papers.

To keep a seal. Description of.

Civ. '02, § 959.

1253. Every Judge of Probate shall keep the following books, (to be furnished by the County Commissioners,) each to be designated by its label, as follows, that may:

Books to be kept.

Civ. '02, § 960.

"Wills," in which he shall enter a copy of all wills offered to probate, together with the probate and certificate thereof.

1. Wills.

"Inventories, Appraisements, and Sales," in which he shall enter all such matters as are designated by the title.

2. Inventories, Appraisements, and Sales.

"Returns," in which he shall enter all of the accounts and receipts and expenditures by executors, administrators and guardians, including the final settlement.

3. Returns.

"Real Estate," in which he shall enter all proceedings and orders in relation to the sale or division of real estate, from the petition to the bond of the purchaser, both inclusive.

4. Real Estate.

"Letters," in which he shall enter all letters granted, whether testamentary, of administration, or of guardianship.

5. Letters.

"Bonds," in which he shall enter bonds of administrators and guardians.

6. Bonds.

"Cash Book," in which he shall open and keep a true account with every individual or estate on whose behalf he has received any moneys, bonds, notes, stocks,

7. Cash Book. Cash Book to be a public record and open to public inspection.

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chooses in action, or other property of any description whatsoever by virtue of his office, exhibiting fully everything so received by him, as well as all costs and charges against such estate, and disbursements in favor of the parties interested therein, or other disposition thereof, which book shall remain in his office as a public record, and be subject to public inspection.

8th. "Journal," in which he shall enter every judgment, sentence, decree, determination, denial, and every other act done or ordered made by him, in his official capacity, so as to constitute a complete journal of the current proceedings of his office.

Each of said books shall be furnished with a full and complete alphabetical index, in the surnames of the parties to the several matters therein contained.

9th. "Index to Lands Devised," in which he shall, immediately after wills shall have been duly proved, enter the names of the devisors and devisees and a short description of lands devised under the wills filed in his office, together with convenient references to said wills.

Whenever a will omits to set forth a description of the lands thereby devised, the person offering such will for probate shall be required to furnish to the Judge of Probate a sufficient description of said lands, to be entered by him in said book. The Judge of Probate, in addition to his charges for probate of wills allowed by law, shall be entitled to charge one dollar for each index of devises of real estate made by him, to be paid by the executor or party probating the will.

10th. "Index of Money Decrees," in which every enrolled order or decree for the payment of money shall be entered with the names of every party or estate bound thereby, alphabetically arranged, together with the names of the parties plaintiff, and (besides the title of the package in which the order or decree is contained and the number in the package) shall exhibit the amount ordered to be paid, the costs (if any), date of enrollment, date of execution, and date of satisfaction where satisfaction has been entered.

Sec. 1254. The manner of filing papers in the Judge of Probate's office shall be as follows, to wit:

The case shall be divided into convenient apartments.

shall be numbered from one forward. The papers relating to the same estate shall be wrapped in an envelope or package, and shall bear a number, and be endorsed in the name of the estate. A convenient number of packages shall be embraced in a strong envelope, and constitute a bundle, bearing the number of the apartment of the case requiring it. A complete alphabetical index shall be connected with reference to the surname of deceased persons whose estate the papers relate, and of the executors and administrators: and opposite each name in such index shall be two columns, the one expressing the number of the apartment where the bundle is to be found, and the other expressing the number of the package in such bundle which contains the papers relating to the estate named in the index.

1255. At each stated session of the Probate Court, the Clerk thereof shall present an account to said Court of the moneys remaining therein, or subject to the order thereof, particularly on account of what cause or causes said moneys are deposited, which account, and the vouchers therefor, shall be filed in Court.

1256. The Judge of Probate, while in office, is authorized to administer oaths and take depositions, affidavits, and probate of deeds and other instruments, as fully and effectually as is done by Clerks of Courts and Clerks of the Public, and his fees therefor shall be the same as are provided by law to other officers for similar services.

1257. Every Judge of Probate shall be responsible for the books and papers, and also for the furniture in his office; and upon his retiring from office, or upon his death, his representatives shall be bound to transfer the same to his successor immediately after such successor shall have been qualified upon the duties of the office.

Before surrendering such books, papers, and furniture, the retiring Judge of Probate, or his representatives, shall be entitled to require a receipt therefor from such successor. The receipt shall specify the number and title of every book, and the number and description of every article of furniture, together with the order and condition of the books, papers and furniture; a duplicate of which receipt shall also be given, and shall, by the retiring Judge of Probate, or his representatives, be filed in the office of the

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Manner
of filing papers
Index to be
kept.Civ. '02,
961.Clerk to file
account of
moneys remain-
ing in Court.Civ. '02,
962.May admin-
ister oaths
etc.Civ. '02,
963.Responsible
for proper
of office;
transfer to
successor and
take receipt.Civ. '02,
964.

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Clerk of the Court of the County. And every Judge of Probate retiring from office, or his representatives, shall be liable to an action, in the name of his successor, for damages for any books, papers or furniture proved to have been in his possession, but not appearing by such receipt to have been transferred to his successor; which damages, when recovered, shall be appropriated to the replacing of such books, papers or furniture, or to the benefit of the parties who may have been injured by the loss thereof; and an order for appropriating such damages shall be made by the Court before which such action may be tried.

To discharge
duties of Master
in Anderson and
Orangeburg
Counties.

Civ. '02, §
965.

Additional
fees for Probate
Judge.

Additional
bond.

Sec. 1258. In the Counties of Anderson and Orangeburg all the duties appertaining to the office of Master are devolved upon, and shall be discharged by the Probate Judge, who in Anderson shall receive the same fees as allowed Masters in other Counties for the discharge of such duties; and who in Orangeburg shall, in addition to his fees as Probate Judge, receive the following fees: For every day spent in the business of a reference, one and one-half dollars; for making and filing each report in a cause, one and one-half dollars; for moneys passing through his hands, by sale or otherwise, he shall be allowed the same commissions as are now allowed to Sheriffs for said County; for each appointment of guardian *ad litem*, one dollar; for making and certifying, upon proper application to him, any order which the Master is authorized to grant, one dollar; for taking, transcribing and filing any bond of guardian, receiver or trustee, or any other injunction or *ne exeat* bonds, one and one-half dollars; for examining and auditing accounts of guardians, receivers or trustees, fifty cents; for granting commissions to take testimony of witnesses or answers of absent defendants, fifty cents; for every deed or mortgage prepared or executed by him, one and one-half dollars.

The Probate Judge in Orangeburg County shall also execute an additional bond, in the sum of ten thousand dollars, for the faithful discharge of his duties under this Section, to be approved in the same manner as now provided by law for the approval of official bonds.

The Circuit Judge when presiding in Anderson and Orangeburg, before whom any cause may come in which a

is necessary, shall appoint the Probate Judge Referee, with the powers and duties appertaining to Referees in Counties where there is no Master.

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The Probate Judge to be Special Referee in all cases.

ARTICLE VII.

THE MASTER.

Referees abolished in certain counties and office of Master established therein; how appointed and term of office of. Within what time bond must be completed and filed. Governor to fill vacancies. Not to practice law in civil cases. Special Master; when and how appointed. General duties of. To sell lands in the County where situate; when.

Sec.

- 1268. May sell in any County under order by consent; Master of Berkeley may sell in Charleston.
- 1269. General powers of.
- 1270. Masters may administer oaths, etc.
- 1271. May grant orders in partition and dower; when.
- 1272. To take testimony on application of party; notice, etc.
- 1273. Deposit of funds by.
- 1274. Annual report of Court on estates, etc.
- 1275. Books of office.

§ 1259. The office of Referee, and the practice of bringing cases to Referees, as provided in the Code of Procedure, shall not exist or be used in the Counties of Abbeville, Aiken, Barnwell, Berkeley, Charleston, Colleton, Darlington, Dorchester, Edgefield, Florence, Greenville, Marion, Richland, Oconee, Orangeburg, Richland, Spartanburg, Union and Kershaw.

Office of Referees abolished in certain Counties

Civ. '02, § 986; 1904, XXIII, 383; 1909, XXV, 1113; 1910, XXVI, 641.

In these Counties the office of Master is established. In the County of Charleston there shall be two Masters, and in each of the other Counties one Master, except in Spartanburg and Florence Counties, in which Counties the duties of such office are devolved on the Probate Judge.

Office of Master established therein; how appointed and term of.

The Master shall hold his office under the appointment of the Governor, by and with the advice and consent of the Senate. He shall hold his office for four years, and until his successor shall be appointed and shall qualify.

In the Counties of Berkeley and Dorchester the Masters shall attend at their respective Court Houses at least twice a week for the transaction of business.

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The Master's term runs from date of appointment.—*Verner v. Sebel*, 2 S. E., 274. See Section 905, *ante*, as to discharge of the duties appertaining to the Master's office in the Counties of Anderson and Orangeburg by the Probate Judge.

Bonds of
Masters.

Civ. '02, §
967: 1900,
XXIV, 384.

Sec. 1260. Before entering on the duties of his office, the Master shall enter into bond, conditioned for the faithful discharge of the duties of the office, in the penal sums following, that is to say: Each Master in the County of Charleston, thirty thousand dollars; each Master in the Counties of Aiken, Berkeley, Dorchester, Kershaw, and Edgefield, five thousand dollars, and in Darlington County, five thousand dollars; and each Master in the other Counties above named, ten thousand dollars; such bonds to be subject to the same provisions as to the number and liabilities of sureties, the approval of the form and sufficiency thereof, and to be filed and recorded in the same office as the bonds of the County officers, as prescribed in Chapter XVIII, Article I.

Oaths of.

Civ. '02, §
968.

Sec. 1261. Before entering upon his duties of his office he shall take in writing, endorsed on his bond, the oath of office prescribed by the Constitution, and also the oaths prescribed in Sections 640 and 641.

Within what
time bond
must be com-
pleted and
filed.

Civ. '02, §
969.

Sec. 1262. The bond of the Master must be furnished, executed, approved and filed within thirty days after notice of his appointment; and if the said bond be not executed, approved and filed within this period, the appointment shall be deemed revoked.

Governor to
fill vacancies.

Civ. '02, §
970.

Sec. 1263. All vacancies in the office of Master, from death, resignation, removal from State, or from any cause whatsoever, shall be filled by the appointment of the Governor, by and with the advice and consent of the Senate; and the person appointed to such vacancy, if his appointment be approved by the Senate, shall hold his office for four years, and until his successor is appointed and shall qualify.

Not to prac-
tice law in
civil cases.

Civ. '02, §
971: 1900,
XXVI, 179;
1910, XXVI,
642.

Sec. 1264. No person whilst he holds the office of Master shall practice or be a partner with any one engaged in the practice of law in the Probate Court, or the Court of Common Pleas of his County, or in the Supreme Court, in any civil case arising in the County in which he holds his office: *Provided*, That the provisions of this Section shall not apply to the Masters for Barnwell, Kershaw, Richland and Sumter Counties.

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265. In case of a vacancy in the office of Master, or of the disability of the Master from interest or any reason, the Court or a Judge thereof may appoint a Master in any case, who shall as to such case be with all the powers of Master.

Special Master; when and how appointed.

Civ. '02, § 972.

266. The Master shall attend the sitting of the Court of Common Pleas in the hearing of any cause in which he may have acted officially, shall make all such sales as the Court may order him to make in granting equitable relief, shall execute all proper conveyances thereof. He shall and perform all orders of the Court upon references conformably to the practice of the Court.

General duties of.

Civ. '02, § 973.

Sales.—*Tunno v. Flood*, 1 McC., 121; *Bally v. Bally*, 9 Rich. Eq., 210; *Law v. Law*, 10 Rich. Eq., 320; *Meng v. Houser*, 13 Rich. Eq., 210; *Witte*, 3 S. C., 308; *Dupont v. Collins*, 3 S. C., 329; *Ostendorff v. S. C.*, 316; *Es parte Knight*, 28 S. C., 481; 6 S. E., 330; *Alexander v. Messervy*, 35 S. C., 409; 14 S. E., 354. Liability for neglect of *Law v. Gibbs*, 2 Dess., 629; *Thompson v. Wagner*, 3 Dess., 94; *Gibbs*, 4 McC., 547; *Es Parte Creditor of Stanyarne*, Harp. Eq., 47; *Es Parte Perry*, Harp. Eq., 50; *Housen v. Ball*, Eq., 482; *Spencer v. Gibbs*, Dud. Eq., 174; *McCall v. Elliott*, 1 Lowndes v. Pluckney, 1 Rich. Eq., 153; *Street v. Laurens*, 5 S. C., 227; *Es Parte Boyd*, 3 Rich. Eq., 166; *Wightman v. Gray*, 10 S. C., 518; *McPherson v. Lynah*, 14 Rich. Eq., 121; *Pickens v. Dwight*, 4

267. Whenever the Court of Common Pleas in any County shall have acquired jurisdiction over real estate in another County, it shall be lawful for the Master of such County in which the action is brought to sell such real estate in the County in which the land is situated, and the sales heretofore made, otherwise valid and not annulled from, are hereby confirmed.

To sell lands in the County where situate; when.

Civ. '02, § 974.

268. Whenever real estate is adjudged to be sold by the Master, such sale may take place by consent of the parties to the cause or their attorneys, or when infants are parties, by the consent of the guardians *ad litem* of such infants or their attorneys, in any County which the Court may order, and all such sales heretofore made, and otherwise annulled from, are hereby confirmed.

May sell in any County under order by consent.

Civ. '02, § 975.

268a. It shall be lawful for the Master's sales in Charleston County to be conducted at the Charleston Real Estate Exchange, or such other place in said County as the Court may direct, any law or custom to the contrary notwithstanding.

McCoy v. McCoy, 33 S. C., 173; 65 S. E., 257.

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General
powers of.Civ. '02, §
976.

Sec. 1269. Each Master, within his County, in all cases praying equitable relief, shall have power to hear and determine motions, of course, and to make orders thereon; to extend the time to answer or demur; to grant leave to amend pleadings and to make new parties; to appoint guardians *ad litem* for infants, and to make all orders necessary for the service by publication of absent defendants. He shall also have power to make orders of reference of matters of account, reserving all the equities of the parties, and may grant all such orders of an interlocutory character as may be necessary to prepare such causes for a hearing on the merits. But all such orders shall be subject to the revision of the presiding Judge at the next succeeding sitting of the Court, or of the resident Circuit Judge at Chambers.

Where case has been referred to Master to take testimony he cannot order amendment as to parties.—*Dixon v. Roessler*, 76 S. C., 415; 57 S. E., 203.

Masters may
administer
oaths.1909, XXVI,
90.

Sec. 1270. The Masters in this State, while in office are authorized to administer oaths, and take depositions, affidavits, renunciation of dower, probate deeds, and other instruments, and take testimony by commission as fully and effectually as if done by clerks of courts and notaries public, and his fees therefor shall be the same as allowed by law to other officers for similar services.

As to amendments.—*S. C. R. R. Co. v. Barrett*, 12 S. C., 174; *Mason v. Johnson*, 13 S. C., 23. Power to sue.—*Douthitt v. Westfield*, 22 S. C., 558. Limitation of power.—*Kilgore v. Hair*, 19 S. C., 488; *Cartee v. Spence*, 24 S. C., 558; *Sartor v. Beaty*, 25 S. C., 294.

May grant
orders in par-
tition and
dower; when.Civ. '02, §
977.

Sec. 1271. He shall in his County have power, upon proper proceedings filed, to grant orders for the partition of real or personal estate, and for the admeasurement of dower in cases where the right of partition or dower is not contested, or the same has been ascertained by a decree of the Court. All proceedings under such orders shall be filed at the next succeeding term of the Court for the adjudication of the presiding Judge, until which adjudication all equities of the parties shall be reserved.

To take tes-
timony on ap-
plication of
party; notice,
etc.Civ. '02, §
978.

Sec. 1272. He shall, upon the application of either party to any cause or proceeding in which equitable relief is demanded, pending and at issue in his County, take in writing the testimony of any witness who may be produced before him by any party to the cause, ten days' notice of

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Application having been given to the opposite party, witness being subject to the same rights of examination, cross-examination and reply, and the same exceptions to the admissibility of testimony, as are allowed by law in examination before the Court; except that in case any objection be objected to, the Master shall receive the same and report to exceptions, reporting the exceptions and his ruling thereon.

to take testimony in actions for foreclosure.—*Bank v. Thompson*, 499; 24 S. E., 332.

deposition so taken may be read in evidence at the hearing, subject to the right of either party, upon good cause shown, to require the personal attendance and viva voce examination of the witness at the hearing.

shall have full power to compel the attendance of witnesses before him, to administer all necessary oaths, to take affidavits, and to punish for any contempt.

1273. He shall deposit all funds in his hands in a bank located at the County seat of his County; and if there be none, then in the bank most convenient to him: Deposit funds by Civ. 979; 1 XXVI, 4
Provided, This Section shall not apply to Berkeley County.

1274. He shall annually report to the Court of Common Pleas of his County, on the first day of the Fall Term of the Court, the different estates in his hands, possession, or management, by virtue of his office or any order or decree of the Court, setting forth in such return the particulars of the value of each estate, together with a full account of the moneys received or paid out by him relating to said estates respectively; and he shall at the same time produce to the Court the vouchers of his said account, and all bonds, certificates of stock, and other investments, specified in his return, producing his bank book showing moneys in his hands.

the Court, setting forth in such return the particulars of the value of each estate, together with a full account of the moneys received or paid out by him relating to said estates respectively; and he shall at the same time produce to the Court the vouchers of his said account, and all bonds, certificates of stock, and other investments, specified in his return, producing his bank book showing moneys in his hands.

1275. He shall keep a reference book in which he shall record all references held by him, and the proceedings in, and a ledger, in which shall be kept the account of the moneys in his hands to whose credit he may receive funds; and when he shall cease to be Master, these books shall be deposited in the office of the Clerk of the Court of Common Pleas of his County. Books and acc. Civ. 981.

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ARTICLE VIII.

MAGISTRATES—THEIR COURTS, POWERS, DUTIES AND SALARIES, AND THE SALARIES OF THEIR CONSTABLES.

SEC.

1276. Appointment, term of office and suspension; vacancies; how filled.

1277. Oaths to be taken by.

1278. Jurisdiction of.

1279. Jury trials before Magistrates.

1280. How juries are drawn.

1281. Penalty for failure to attend as juror.

1283. May punish for contempt.

1284. May administer oaths and take renunciation of dower.

1285. May take testimony on application of party.

1286. May take testimony *de bene case*.

1287. Dockets to be kept; disposition of.

1288. To receive salaries in lieu of fees in criminal cases.

1289. Accounts to be audited by County Commissioners.

1290. To itemize costs, when so demanded.

1291. When to return papers to the Court of Sessions.

1292. Cannot act as attorney in cases which may have been before them.

1293. Fines and Penalties; how disposed of.

1294. Monthly reports of moneys collected to Auditor.

1295. Dockets to be submitted to County Commissioners.

1296. Fees on rules against Constables.

1297. Regulations as to books distributed among Magistrates; special provision for each County.

1298. Abbeville County.

1299. Alken County.

1300. Anderson County.

SEC.

1301. Bamberg County.

1302. Barnwell County.

1303. Beaufort County.

1304. Berkeley County.

1305. Calhoun County.

1306. Charleston County.

1307. Charleston County, special provision.

1308. Cherokee County.

1309. Chester County.

1310. Chesterfield County.

1311. Clarendon County.

1312. Colleton County.

1313. Darlington County.

1314. Dillon County.

1315. Dorchester County.

1316. Edgefield County.

1317. Fairfield County.

1318. Florence County.

1319. Georgetown County.

1320. Greenville County.

1321. Greenwood County.

1322. Hampton County.

1323. Horry County.

1324. Kershaw County.

1325. Lancaster County.

1326. Laurens County.

1327. Lee County.

1328. Lexington County.

1329. Marion County.

1330. Marlboro County.

1331. Newberry County.

1332. Oconee County.

1333. Orangeburg County.

1334. Pickens County.

1335. Richland County.

1336. Saluda County.

1337. Spartanburg County.

1338. Sumter County.

1339. Union County.

1340. Williamsburg County.

1341. York County.

1342. Service of process in certain Counties regulated.

Under the Constitution, Article V, Section 23, a Magistrate's jurisdiction is confined to the County for which he is appointed.—*Dill v. Durham*, 56 S. C. 423; 35 S. E., 3.

Section 1276. The Governor shall have authority, by and with the advice and consent of the Senate, to appoint Magistrates in each County of the State, who shall hold their office

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term of two years, and until their successors are
 ed and qualified. The number of Magistrates to be
 ed for each County and their territorial jurisdic-
 all be the same as heretofore prescribed by law for
 rates in the respective Counties of the State, except
 nafter otherwise provided: Such Magistrates may
 ended by the Governor for incapacity, misconduct
 ect of duty; and the Governor shall report any
 ion, with the cause thereof, to the Senate at its next
 for its approval or disapproval.

Magistrates
 to be appoint-
 ed by the Gov-
 ernor.

Civ. '02, §
 982.

Governor shall have authority, by and with the advice
 nsent of the Senate, to fill any vacancy caused by
 removal or otherwise of any Magistrate for the
 ed term.

Governor
 may suspend
 Magistrates
 for miscon-
 duct.

277. Before entering upon the discharge of the
 of his office, each Magistrate must take, in writing,
 h of office prescribed in the Constitution, and also
 hs prescribed in Sections 582 and 583 before the
 of the Court of Common Pleas of the County, or, in
 ere be no such Clerk, before any one authorized to
 ster an oath, and must file the same with the Secre-
 State.

Oaths of of-
 fice.

Civ. '02, §
 984.

278. The civil jurisdiction of a Magistrate shall
 same as that heretofore exercised by Trial Justices.
 shall have exclusive jurisdiction in all criminal cases
 ch the punishment does not exceed a fine of one hun-
 dollars or imprisonment for thirty days, except in
 of riot, assault and battery, and larceny, and the
 g of concealed weapons coupled with an offense in
 such weapon is used. In criminal matters beyond
 urisdiction to try, they shall sit as examining Courts,
 mmit, discharge and (except in capital cases) recog-
 ersons charged with such offenses. Magistrates shall
 oncurrent jurisdiction only with the Court of General
 ns in cases of riot, assault and battery and larceny.
 unties where they are given separate and exclusive
 rial jurisdiction, criminal cases shall be tried in the
 t where the offense was committed, unless the place
 l be changed to another district in the same County
 manner prescribed by law.

Jurisdiction
 of.

Civ. '02, §
 985.

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Parties entitled to a trial by jury.

Sec. 1279. Either party to suit before a Magistrate shall be entitled to a trial by jury.

Civ. '02, § 986. Jury may be empanelled on demand of prosecutrix against the protest of defendant.—State v. Nash, 51 S. C., 319; 28 S. E., 946.

Parties may agree upon a jury in civil cases; how juries are drawn.

Sec. 1280. In civil cases the parties may agree on a jury; but when they do not agree, and also in criminal cases, a jury shall be selected in the following manner: The Sheriff,

Civ. '02, § 987.

Constable, or other officer appointed by the Magistrate, shall write and fold up eighteen ballots, each containing the name of a respectable voter of the vicinity; he shall deliver the ballots to the Magistrate, who shall put them into a box and shake them together, and the officer shall draw out one, and the person so drawn shall be one of the jury, unless challenged by either party; and the officer shall thus proceed until he shall have drawn six who shall not have been challenged; neither party being allowed more than six challenges; but if the first twelve drawn shall be challenged, and the parties do not agree to a choice, the last six shall be the jury; and when any of the six jurors so drawn cannot be had, or are disqualified by law to act in such case, and the parties do not supply the vacancy by agreement, the officer shall proceed to prepare, in the manner before directed, ballots for three times the number thus deficient, which shall be disposed of and drawn as above provided.

Penalty for failure to attend as juror when summoned by Magistrate or Police Court.

1908, XXV, 1087.

Sec. 1281. If any juror duly summoned shall neglect or refuse to appear in obedience to any *venire* issued by any police or municipal or magistrate court, and shall not within forty-eight hours render to the Recorder or Magistrate holding such police or magistrate court, and issuing the *venire*, a sufficient reason for his delinquency, he shall forfeit and pay a fine of ten dollars (\$10.00) to the treasury of the municipality or County where the cause is tried, to be assessed by such Recorder or such Magistrate so holding the police or magistrate court and collected on his warrant without other process; and a failure to pay forthwith such fine so assessed shall constitute a contempt of court and be punished accordingly: *Provided*, No person shall be required to serve on a jury in said courts oftener than once in each month of the year.

Sec. 1283. Every Magistrate shall have power to enforce the observance of decorum in his Court while holding the

and for that purpose he is authorized to punish any who shall, in the presence of the Court, offer an oath to himself or a juror, or who shall be wilfully guilty of undue disturbance of his proceedings while sitting in Court, as for a contempt, by fine and imprisonment, or both, not exceeding twenty dollars' fine and twelve months' imprisonment.

1284. Every Magistrate shall have power to administer any oath authorized or required by law to be taken, whether directed to be administered by another authority; and any oath so administered shall, to all intents and purposes, be binding and effectual in law. He may also take oaths of qualification of dower.

Byrd, 28 S. C., 18; 4 S. E., 793.

1285. Any Magistrate, on the application of any person to a cause depending before him, shall have power, and is authorized, to issue a summons citing any person whose testimony may be required in such cause to appear before him at a certain time and place, not more than twenty miles from his residence of such witness, to give evidence, which summons shall be served personally at least one day before such evidence is required. If such person shall neglect or refuse to attend, the Magistrate shall have power to issue a writ commanding such witness to be brought before him; and if any witness attending shall refuse to give evidence, without good cause shown, the Magistrate may commit him to the jail of the County, as for a contempt, not longer than ten days, as well as fine him in an amount not exceeding ten dollars; the cost of such rule, commitment, and detention, together with the fine so imposed, may be levied of the goods and chattels of such recusant witness, on the order of the Magistrate, directed to any Constable of the County, for execution.

1286. In case it shall appear, to the satisfaction of the Magistrate, that the attendance of any witness, whose testimony may be required in any case before him, cannot be obtained by reason of extreme age, sickness or infirmity, or of indispensable absence on public official duty, or in consequence of intended removal from the State before the cause is otherwise ready for trial, or where such witness may be residing in another County, or without the limits of the

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May punish
for contempt

Civ. '02,
989.

May administer
oath and take
oath of qualification
of dower.

Civ. '02,
990.

May take
testimony
application
party.

Civ. '02,
991.

May take
testimony
bene esse.

Civ. '02,
992.

A. D. 1912.

State, it shall be lawful for him to take the examination of such witness in writing, or cause the same to be done by another Magistrate, or other officer authorized by law to administer oaths, to be used in evidence on the trial of the case: *Provided*, That the parties to such cause shall have notice thereof in time to be present if they or either should choose to be present, or notice by either party to the other of interrogatories to be propounded to such witness, with four days' time given the party notified to prepare cross-interrogatories, upon which said interrogatories and cross-interrogatories, when preferred by the parties, or either of them, the deposition shall be had. When such examination is so made by another, it shall be sealed up, with the title of the case endorsed, and conveyed by a disinterested person to the Magistrate authorizing the same, or mailed and the postage prepaid.

May authorize testimony taken before a foreign Notary Public and certified under his official seal.—*Greene v. Talley*, 39 S. C., 338; 17 S. E., 779.

Books to be kept by Magistrates, and disposition thereof in case of his death.

Civ. '02, § 993: 1005, XXIV, 691.

Sec. 1287. Each Magistrate shall keep two books, one for civil, the other for criminal cases, wherein he shall insert all his proceedings in each case by its title, showing the commencement, progress and termination thereof, as well as all fees charged or received by him, he shall also enter upon his book of criminal cases all warrants issued by him, and what disposition he has made of the same, what moneys have been collected from fines, costs and otherwise thereunder, and what disposition he has made of the same, and shall produce the same when required, for the inspection of the Solicitor of the Circuit. Whenever any Magistrate shall die, resign, be removed, or go out of office, his books of office, with all records relating thereto in civil cases, which have not been settled, shall be turned over to his successors or to some Magistrate in the same County, who shall be authorized and required to proceed thereon the same as if he had tried such cases and issued the papers thereon himself.

Etters v. Etters, 11 Rich., 413; *Cherry v. McCants*, 7 S. C., 224; *Barron v. Dent*, 17 S. C., 79; *Caulfield v. Charleston*, 19 S. C., 601. His books the best evidence of proceedings before him.—*State v. Rice*, 49 S. C., 418; 25 S. E., 452.

Sec. 1288. The Magistrates now in office, or hereafter to be appointed, shall receive annual salaries in lieu of all fees

A. D. 19

sts in criminal cases or proceedings, payable quarterly

County Treasurer upon the warrant of the County
visors against any County funds available for that
e.

Shall rece
salaries
lieu of fees
all criml
cases.

1289. The County Commissioners of the several

Civ. '02
994.

es of this State, in auditing the accounts of Magis-

shall require them to exhibit with the bill of costs

Accounts
to be audi
by Coun
Commisal
ers.

original papers in each case in which said costs have

d, and no bill of costs against any County in this

Civ. '02
995.

shall be allowed by any Board of County Commis-

s unless accompanied by the original papers in each

mentioned in the bill or account.

County Commissioners, after examining the original

of any Magistrate, shall return them to him without

1290. It shall be the right of any person, before pay-

Party charg
with co
may dema
items.

y costs in any Magistrate's Court, to demand from

Magistrate an itemized account of such costs; said

Civ. '02
996.

it shall be receipted by the said Magistrate at the

aid costs are paid, and no person shall be compelled to

y costs in any Magistrate's Court unless the Magis-

shall furnish to such person an itemized account.

1291. All papers pertaining to the Court of Sessions

Must retr
papers
Courts of S
sions ten da
before 1
term.

be returned by each Magistrate to the Clerk at least ten

before the ensuing term of said Court, except such as

Civ. '02
997.

have been issued or received by him subsequent to that

which shall be returned on the first day of the term,

the penalties in the following Section prescribed; and

such paper shall be of a size not less than half a sheet

lscap, folded in the manner that writs are when issued,

shall be endorsed legibly with the title of the case,

of the offence, kind of proceeding, and the Magis-

s name.

1292. It shall be unlawful for any Magistrate to

Not to
pear as att
ney in ca
once bef
him.

r as attorney at law in any of the Courts of this State

y action which may have been before him in his official

Civ. '02
998.

ity as such Magistrate.

y Magistrate who violates the provisions of this Sec-

shall forfeit his office.

1293. All fines and penalties imposed and collected

Magistrates in criminal cases must be forthwith turned

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Fines and penalties: how disposed of.

Civ. '02, § 999.

Monthly reports of the moneys collected; to whom made, etc.

Civ. '02, § 1000.

Magistrates to submit their dockets to the County Board of Commissioners.

Civ. '02, § 1001.

Not required to make any other reports, etc.

Fees of, for rules against Constables.

Civ. '02, § 1002.

Regulations as to books distributed among Magistrates.

Civ. '02, § 1003.

over by them to the County Treasurers of their respective Counties for County purposes. But when, by law, any person is entitled, as informer, to any portion of such fine or penalty, the same shall be immediately paid over to him.

Sec. 1294. Every Magistrate shall, on the first Wednesday in each month, or within ten days thereafter, make, in writing, to the Auditor and Treasurer of his County, a full and accurate statement of all moneys collected by him on account of fines, penalties or forfeitures during the past month, together with the title of each case where a fine has been paid, and the County Treasurers are required to keep a record of the title of each case in which the fine has been paid, the nature of the offense for which the fine was imposed and the amount thereof.

Sec. 1295. All Magistrates are hereby required to submit their dockets quarterly to the County Board of Commissioners at their regular quarterly meetings, and said Boards, respectively, shall make reports annually, prior to the fall term of court, to the foreman of the grand jury as to said dockets, and any irregularities shown thereby.

Magistrates shall not hereafter be required to make reports or file transcripts of their dockets in any manner and at any other time herein prescribed, any law to the contrary notwithstanding.

Sec. 1296. Magistrates shall be entitled to the same fees for issuing rules against Constables, and hearing the return thereto, as they are allowed by law for issuing a summons in civil cases.

Sec. 1297. The Clerks of the Courts of the respective Counties shall each keep a book in which shall be entered all books sent them for distribution among the Magistrates of their respective Counties, in which book shall also be written the receipt of Magistrate to whom delivered, to be cancelled upon return of such books, by writing across the same "books returned;" and upon the expiration of the term of office of any Magistrate, it shall be his duty to return to the Clerk of the Court of his County, within thirty days, all books received by him from said Clerk, in good condition, and have his receipt cancelled, as above provided.

Sec. 1298. Abbeville County—There shall be appointed for Abbeville County one Magistrate at Abbeville Court

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Abbeville
County.1909. XXVI
94

who shall receive an annual salary of three hundred and he shall have the right to appoint a Constable salary to serve all civil and criminal process issued by the magistrate, who shall receive the fees now provided for by the Constable in criminal cases shall be turned over to the County Treasurer on the last day of the month when the same shall be collected, or on the first day of the next month. Said book shall at all times be subject to inspection by the public, the Solicitor and the Grand Jury. Before entering upon the duties of said office, the Constable herein provided for shall give a bond, to be approved by the Clerk of the Court of said County, in the sum of five hundred dollars, with good and sufficient surety for the faithful discharge of the duties of said office: *Pro- further*, That if in the judgment of the Magistrate it is reasonable or necessary to have any process served by the Sheriff of the County, he shall place the same in the hands of the Sheriff, whose duty it shall be to serve the same, and for each service the County shall pay said Sheriff the fees provided herein for the Constable. There shall also be appointed a Magistrate at Lowndesville, who shall receive an annual salary of seventy-five dollars per annum, and who shall have a right to appoint a Constable, who shall receive a salary of seventy-five dollars. There shall also be appointed one for each of the following places, viz.: Calverton, Lebanon and Mt. Carmel, who shall each receive a salary of sixty dollars per annum, and they shall each have a right to appoint a Constable at a like salary. There shall also be appointed one each at Calvert's and Antretow, who shall each receive a salary of sixty dollars per annum, and who shall each be allowed to appoint a Constable, who shall receive a salary of sixty dollars each. There shall be appointed a Magistrate at McCormick, who shall receive an annual salary of one hundred dollars, and who shall have the right to appoint a Constable with a like salary. There shall also be appointed a Magistrate for Hampton, who shall receive an annual salary of sixty dollars per annum, and shall have

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the right to appoint a Constable, at a like salary. There shall also be appointed a Magistrate at Donald's, who shall receive a salary of one hundred dollars per annum, and who shall have a right to appoint a Constable with a like salary. There shall also be appointed a Magistrate at Due West, who shall receive a salary of seventy-five dollars, who shall have a right to appoint a Constable at a like salary.

Under the provision that the Governor shall appoint one Magistrate at each of the places named, a commission stating that a party at a place named is appointed Magistrate for the County is sufficient.—*Bell v. Pruitt*, 51 S. C., 344; 29 S. E., 6.

"Abbeville" used interchangeably with "Abbeville Court House."—*Whitman v. Pruitt*, 52 S. C., 84; 29 S. E., 405.

Aiken County.

Civ. '02, §
1005: 1909,
XXVI, 95;
1910, XXVI,
597.

Sec. 1299. Aiken County—There shall be Magistrates, whose jurisdiction shall extend over the entire County, with salaries as follows: First District, one, Aiken, Clearwater, Upper Millbrook, salary, five hundred dollars; Second District, one, Ellenton, salary, seventy-five dollars; Third District, one, Windsor and White Pond, salary, one hundred and ten dollars; Fourth District, one, Salley and Perry, salary, one hundred and fifteen dollars; Fifth District, one, Wagener, Beulah and Seivern, salary, two hundred dollars; Sixth District, one, Wards and Shaws, salary sixty-five dollars; Seventh District, one, Chinquapin and McTier, salary, sixty-five dollars; Eighth District, one, Vacluse, one hundred and ten dollars; Ninth District, one, Graniteville, salary, two hundred and seventy dollars; Tenth District, one, Langley, salary, four hundred dollars; Eleventh District, one, Schultz, salary, one hundred and forty dollars; Twelfth District, one, Hammond, salary, one hundred and ten dollars; Thirteenth District, one, Lower Millbrook and Sleepy Hollow, salary, seventy-five dollars; Fourteenth District, one, Silvertown, salary, one hundred and ten dollars; Fifteenth District, one, Warrenville, salary, one hundred and ten dollars; Sixteenth district, one, Montmorenci, salary, two hundred and fifty dollars; Seventeenth District, one, Bath and Clearwater No. 2, salary, seventy-five dollars.

Sec. 1300. Anderson County—Twenty-two Magistrates shall be appointed for the County of Anderson, of whom two shall reside in the city of Anderson, one in Broadway Township, one at Pelzer, one at Piedmont, one at Belton, and the others shall be distributed over the County as may

serve the public welfare. They shall be paid annual salaries as follows: Magistrate W. J. Muldrow, at Anderson, or his successor, \$400; Magistrate B. F. Wilson, at Bushy Creek Township, or his successor, \$600; one at Bushy Creek Township, \$100; one at Hopewell Township, \$100; one at Piedmont, or his successor, \$125; one in Broadwater Township, \$75; one at Honea Path, \$100; one at Sandy Spring, \$75; one at Iva, \$125; one at Pendleton, \$100; one at Belton, \$200; one at Belton, \$125; one at Pelzer, \$150; and all others in the county each fifty dollars.

Any such Magistrate shall neglect the duties of his office, or shall fail to pay over to the County Treasurer the moneys and fines collected by him, he shall be liable to be removed in the Court of General Sessions, and upon conviction shall be punished as if guilty of larceny to the value of the moneys not so paid over, and shall be removed from office. The Constables required in the prosecution of criminal cases shall be furnished by the County Commissioners upon the requisition of the several Magistrates, as they may be required in the performance of the duties of their office.

§ 301. Bamberg County.—There shall be for Bamberg County five Magistrates; one each for the towns of Bamberg, Denmark, Ehrhardt and Olar, and one for Fish Pond. Said Magistrates shall each appoint a Constable, who shall execute a good and sufficient bond in the sum of two hundred and fifty dollars, conditioned for the faithful performance of their duties. That said Magistrates shall receive the following salaries, to wit: At Bamberg, three hundred dollars; at Denmark, three hundred dollars; at Ehrhardt, one hundred and ten dollars; at Olar, one hundred and twenty-five dollars; at Fish Pond, one hundred dollars; and the Constables appointed by said Magistrates shall receive as salaries, to wit: Bamberg, two hundred and twenty-five dollars; Ehrhardt, one hundred dollars; Denmark, two hundred dollars; Olar, one hundred dollars; and Fish Pond, one hundred dollars. That the salaries shall be in lieu of all costs and fees in criminal cases, and in full for any and all work, which they do in acting as inquests or while acting as Coroner. And the provisions herein provided for Magistrates' Constables shall

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Anderson
County.

Civ. '02, §
1006.
1908, XXIV,
31: 1905,
XXIV, 891;
1906, XXV,
65: 1907,
XXV, 555;
1908, XXV,
1134: 1909,
XXVI, 97;
1910, XXVI,
598.

Bamberg
County.

Civ. '02, §
1007: 1909,
XXVI, 97.

A. D. 1912.

be in full for all work done for the County, or in criminal cases, or in empanelling juries for the Coroner, or a Magistrate acting as Coroner; and it shall be the duty of the Magistrates, on request of the reputable citizens of the neighborhood, to hold an inquest in the absence of the Coroner, and it shall be the duty of the Magistrates for Bamberg County to sentence all persons, male or female, convicted of any offense as provided by law to hard labor on the public works, such work to be performed at such place as the County Supervisor may direct. And the Constables are hereby required to transport and deliver all prisoners convicted and sentenced to hard work to the County chain-gang, unless otherwise directed by the County Supervisor. And said Constables shall be allowed five cents mileage on way, for the nearest route for each prisoner so transported and delivered to said County chain-gang. That the salaries of Magistrates and their Constables shall be paid monthly, and before any Magistrate shall be entitled to the compensation herein provided, he shall, at the end of each month, make a statement, under oath, and file the same with the Clerk of Court of Common Pleas, showing the number of warrants issued by him, giving the name of the party and offense charged, showing the disposition of the case, if tried, whether convicted or acquitted, and if convicted, the sentence of the court; and further declare under oath, as follows: I,, Magistrate for the County of Bamberg, do solemnly swear, that since the receipt of my commission as Magistrate, bearing date day of, 19..., I have not compromised any case brought before me, except the State vs. (stating the nature of the compromise). and that I have deposited all the cash and fines, etc., received with the County Treasurer of Bamberg County; so help me God. Any one swearing falsely shall, upon conviction, be punished as for perjury.

Hightower v. Bamberg County, 54 S. C., 576; 32 S. E., 576.

Barnwell
County.

Sec. 1302. Barnwell County—There shall be ten Magistrates in Barnwell County, each to appoint a Constable with location and salaries as follows: One Magistrate at Barnwell, at a salary of three hundred (\$300) dollars per annum, and his Constable, a salary of three hundred (\$300)

Civ. '02, §
1009; 1910,
XXVI, 598.

A. D. 1912

per annum; one Magistrate each for Blackville, Dale and Williston, at a salary of two hundred and (\$250) dollars each; and each of these Magistrates to have a Constable, at a salary of two hundred and eighty- (\$285) dollars each; and one Magistrate each at Red Bluff, Ulmer, Four Mile, Dunbarton and Baldoc, whose salary, each, shall be one hundred and twenty-five (\$125) dollars; and each of these Magistrates to have a Constable, whose salary of one hundred and forty-three (\$143) dollars; and one Magistrate at Kline, whose salary shall be one hundred and fifty (\$150) dollars; and his Constable shall receive a salary of eighty-six (\$86) dollars. The Magistrate at Allendale shall hold his court at Fairfax one day in each week, when the business of the court requires it.

§ 1303. Beaufort County—Ten Magistrates shall be appointed in Beaufort County, with the following salaries: Beaufort County.
 One at Beaufort, seven hundred dollars; one at Port Royal, five hundred and fifty dollars; one for St. Helena Township, four hundred and sixty dollars; one for Yemassee Township, three hundred and sixty dollars; two for Sheldon Township, one a resident of the upper portion of the Township, who shall hold his court at Yemassee or Pocatigo, the other a resident of the lower portion of the Township, who shall hold his court at the village of Keans Neck, the salary of each shall be two hundred dollars; one each for Coosawhatchie and Puffton Townships, two hundred dollars; two for Hilton Head Township, one of whom shall be appointed from Beaufort, a resident of Daufuskie Island, and the other shall be appointed from and be a resident of Hilton Head Island. Any one of said Magistrates may appoint one constable, at a salary of one hundred dollars: *Provided*, That the salary of the Constable appointed by the Magistrate at Beaufort shall be three hundred dollars; that the salary of the Constable appointed by the Magistrate for Yemassee Township shall be one hundred and fifty dollars; that the salary of the Constable appointed by the Magistrate for Sheldon Township shall be one hundred dollars; and by the Magistrate for Hilton Head shall be one hundred and fifty dollars; and the salary of the Constable for Daufuskie shall be seventy-five dollars. The jurisdiction in all civil cases of the Magistrate now or hereafter appointed in Beaufort County of Beaufort, resident at or near Hardeeville,

Civ. '02, §
 1009; 1009,
 XXVI, 99.

A. D. 1912.

be, and hereby is, extended over the territory of Hampton County to the limit of five miles in each and every direction from the Atlantic Coast Line Railway depot in said village of Hardeeville: *Provided*, That he shall only have jurisdiction to issue warrants for and to arrest persons charged with crime in Hampton County and deliver them to the authorities for Hampton County for trial. The jurisdiction in criminal cases of the Magistrate now or hereafter appointed for the County of Beaufort, resident at or near Yemassee or Pocatigo, is extended over the territory of Hampton County to the limit of five miles in each and every direction from the Atlantic Coast Line Railway depot in said town of Yemassee: *Provided*, That he shall only have jurisdiction to issue warrants for and to arrest persons charged with crime in Hampton County and to deliver them to the authorities in Hampton County for trial.

See Jones v. Brown, 57 S. C., 14; 35 S. E., 397, in regard to provisions as to township in which trials must take place, which provisions were repealed by Act 1909, 26 Stats., 98.

Berkeley
County.

Civ. '02, §
1010; 1910,
XXVI, 599.

Sec. 1304. Berkeley County—There shall be thirteen Magistrates in Berkeley County, who shall be *bona fide* citizens of the County, and who shall be distributed as follows: One in the neighborhood of Carns Cross Roads; one in the neighborhood of the Ten Mile Hill; one in the neighborhood of Cross Postoffice; one at or near the court house; one at or near St. Stephen's; one in the neighborhood of Blake Postoffice; one in the neighborhood of Cainhoy; one in the neighborhood of Hilton's Cross Roads; one in the neighborhood of Honey Hill; and one in the neighborhood of Conefer. The said Magistrates shall each receive, in lieu of all costs and fees in criminal matters, a salary of one hundred (\$100) dollars per annum, upon warrants to be issued to them once a quarter by the Board of County Commissioners of said County, and only after the said several Magistrates have complied with the requirements of Sections 1292, 1293 and 1294 and all other Acts or parts of Acts pertaining to the duties of Magistrates. And the said Magistrates shall each appoint one regular Constable, who shall receive the same salary as the Magistrates by whom he is appointed, and additional compensation of ten cents per mile, one way, for transportation to

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county jail or to the chaingang, prisoners who have been convicted in Magistrates' courts.

1305. Calhoun County—There shall be three Magistrates in Calhoun County, each to appoint a Constable, with salaries and salaries as follows: One Magistrate for District No. 1, located at St. Matthews, at a salary of three hundred dollars, and two hundred dollars for his Constable; one Magistrate for District No. 2, located at Cameron, at a salary of one hundred dollars, and seventy-five dollars for his Constable; one Magistrate for District No. 3, located at Star, at a salary of one hundred dollars, and seventy-five dollars for his Constable. District No. 1 shall be composed of Amelia, Caw Caw and Sandy Run Townships. District No. 2 shall be composed of Lyons Township, and District No. 3 shall be composed of Pinegrove Township. Salaries herein provided to be payable quarterly, as for County officers for said County.

1306. Charleston County—There shall be for the Charleston County four Magistrates, one of whom shall be as a Judicial Magistrate, and three as Ministerial Magistrates. The Judicial Magistrate shall have jurisdiction to hear and determine all cases properly brought before him, but cannot practice in the Magistrates' Courts. Ministerial Magistrates may bring all actions and prepare all cases triable in the Magistrates' Courts, but cannot hear and determine any cases whatever excepting when acting as a Judicial Magistrate in cases hereinafter provided.

Courts take judicial notice whether a Magistrate issuing a warrant is a Judicial or ministerial Magistrate, and if ministerial that he has no authority to try the case.—Whaley v. Lawton, 57 S. C., 262; 85 S. E., 558.

Magistrates of the city of Charleston shall each enter into bond to the State, with sureties in the sum of one thousand dollars, and shall receive, as full compensation for their services against the County whatever, the following salaries: The Judicial Magistrate at the rate of nine hundred dollars per annum, and each Ministerial Magistrate at the rate of nine hundred dollars per annum, said salary to be paid on orders or warrants of the County Board of Commissioners by the County Treasurer. The Recorder of the City of Charleston is hereby clothed with all the powers, duties and jurisdiction of a Judicial Magistrate, except that

Calhoun County.

1909, XXVI, 99.

Charleston County.

Civ. '02, § 1011; 1902, XXIII, 985; 1903, XXIV, 89; 89, 56; 1903, XXIV, 894; 1907, XXV, 558; 1908, XXV, 1125; 1909, XXVI, 99; 1910, XXVI, 599.

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salary of one hundred and fifty dollars per annum, at McClellanville, who shall receive a salary of one hundred and twenty-five dollars per annum; and they shall have jurisdiction as Magistrates and Deputy Coroners in and for every part of said County outside of the said city of Charleston, and there shall also be a Magistrate at or near Ten Mile, who shall receive a salary of seven hundred and fifty dollars per annum, in and for said County of Charleston. The jurisdiction of the Magistrate at Ten Mile shall be limited to the territory on the north by the line dividing the County of York from the County of Charleston, and on the east by Cooper River, and on the south by the northern line of the County of Charleston, and on the west by the Ashley River. The said Magistrates outside of the city of Charleston shall receive a salary of one hundred and fifty dollars per

annum. There shall also be one Magistrate for that portion of the County embraced between Cooper River on the east and the confluence of Ashley and Cooper Rivers on the south, the Ashley River on the west, and the northern line of said County running from the Ashley River to the mouth of Little Back Creek, where it enters into the Cooper River; his jurisdiction shall be limited to his part of said County as aforesaid. He shall have the same duties and powers as the Ministerial Magistrate in said city, and he shall return his cases to and try them in the Magistrates' Courts in the said city of Charleston, and shall be a part of the same of said Magistrates' Courts. He shall enter into bond with the State (with sureties) in the sum of one thousand dollars, as is required of the Magistrates of the City of Charleston, and he shall receive as full compensation for all claims whatever against the County a salary of five hundred dollars per annum.

A Judicial Magistrate for the city of Charleston shall receive the sum of one hundred and fifty dollars per annum for the purpose of paying an official court stenographer for the Judicial Magistrate's Court: *Provided*, That the salaries of the Magistrates and their Constables in Charleston shall be paid monthly, and before any Magistrate is entitled to the compensation provided by law he shall, at the end of each month, make a statement under

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oath, and file the same with the Clerk of the Court of Common Pleas, showing the number of warrants issued by him during the current month; giving the names of the parties and offenses charged, and the disposition of each case, if tried, whether convicted or acquitted, and if convicted the sentence of the court, and further declare under oath administered by the Clerk of the Court of Common Pleas, as follows: "I,, Magistrate for the County of Charleston, do solemnly swear that since the receipt of my commission as Magistrate, bearing date the day of, 19.., I have not compromised any case brought before me, except the State against, (stating the nature of the compromise), and that I have deposited all the costs, fines, etc., received with the County Treasurer of Charleston County: so help me God": *Provided, further, That any one swearing falsely to the foregoing shall, upon conviction, be punished as is now provided by law for the punishment for perjury.*

Each Magistrate in said County is authorized to appoint one Constable to perform such duties as are now by law provided, and to employ an extra Constable, if any of them deem it necessary, for the collection of delinquent poll taxes. Said Constable shall be allowed for his services the sum of twenty-five cents for each poll collected, which sum shall be charged against the delinquent in the same manner as Treasurers' costs and penalties are charged. The Constables appointed outside of the city of Charleston shall each receive out of the funds of the said County a salary of one hundred dollars per annum, except the Constable appointed by the Magistrate of the Parish of St. Phillips, outside of said city, who shall receive a salary of three hundred dollars per annum. The Constables appointed for the city of Charleston shall each receive a salary of three hundred dollars out of the funds of said County.

Sec. 1307. Courts of Magistrates shall be held in the city of Charleston by one at least of the Judicial Magistrates on every day of the week, except Monday, Saturday, Sunday, and public holidays, and may be held on any secular day. The place of holding such Court shall be provided by the County Commissioners of Charleston County.

Courts in
city of Charleston;
special provisions.

Civ. '02, §
1012.

A. D. 1912.

The said Courts shall have exclusive jurisdiction of cases properly triable before Magistrates in which the plaintiff or a majority of the defendants shall reside in said city, or within the late Parish of St. Philip's in the city of said city and north of Line Street. And they shall not have jurisdiction of any such cause when the plaintiff or a majority of the defendants shall not reside in said city or said Parish, unless the non-resident plaintiff or defendants consent thereto in writing: *Provided*, That nothing herein contained shall apply when the plaintiff or defendants are non-residents in this State. All cases of landlord and tenant, and all cases respecting the unlawful holding of lands, tenements, or hereditaments, arising in said city, which under the laws of this State may be heard and determined by a Magistrate or Magistrates, shall be heard and determined in the said Court.

All summons and other process for the Courts of Magistrates in civil cases shall be issued exclusively by one of the Ministerial Magistrates.

Any party in any cause in said Court, civil or criminal, shall be entitled to a jury, if he demand one previous to the trial, to be drawn by the presiding Magistrate, and in the mode now provided by law as governing the drawing of juries in Magistrates' Courts.

In all cases in which the State is a party, the trial before the Magistrate Court shall be conducted and the State represented by a Ministerial Magistrate unless the Solicitor-General of the Circuit be in charge thereof.

It shall be the duty of the Judicial Magistrate, on the first day of each term of the Court of General Sessions of Charleston County, to report in writing, under their hands and seals, to the presiding Judge of said Court:

First. The number of Ministerial Magistrates in the said Court of Charleston.

Second. The number of cases, civil and criminal, brought before each of them in their Courts.

Third. The number of days on which, during said interval, the Court has had its session.

Fourth. The amounts of fines imposed in said Courts and the names of the persons fined.

n.

CIVIL CODE

h. The number and the names of the cases on which a docket fee has been imposed and those in which it has not been paid.

The said Courts of Magistrates shall have full power and authority to punish for contempt committed during the trial thereof, and if in the presence of said Court, and for contempt, to impose punishment by fine not exceeding one hundred dollars, and imprisonment not exceeding two months, either or both.

Appeals shall be from the said Courts of Magistrates in cases now allowed by law for appeal from the ordinary Magistrates' Courts, to be prosecuted in the same manner and under the same regulations as therein prescribed.

All judgments in the said Court shall be entered by the Clerk of said Court. The Clerk of said Court shall make up a judgment roll consisting in each case of the warrant or summons issued by the Court, and shall enter the same in a book kept by him for that purpose, specifying the name of the plaintiff, the name of the defendant, the amount of the claim and the amount of the costs, with the date of the said judgment roll to be made up and entered within twenty-four hours after the verdict is found, and shall be signed by the presiding Magistrate. For his services in making up such judgment, except in State cases, he shall be entitled to demand and receive from the party entering the same the sum of twenty-five cents, which shall be paid along among the costs of the case.

All executions issuing upon judgment in said Court shall be signed by one of the Judicial Magistrates and countersigned by the Clerk, and shall be directed to all or any of the Constables of said County, and in every other respect shall be governed by the same rules as now pertaining to executions issued by Magistrates.

In all cases in which it may be required by law that a decision shall be rendered by two Magistrates, such cases shall be heard and determined by the Judicial Magistrate subject to the provisions of the preceding Section.

The Judicial Magistrate shall have authority to appoint a clerk for his Court, who shall hold his term of office at his pleasure, and who shall receive as his compensation

A. D. 1912.

such clerk, the fees herein provided for entering
ent.

the amount of docket fee to be charged in each case
as follows: When the sum sued for or amount of
es claimed shall be twenty dollars or less, the docket
ll be twenty-five cents; when it shall be more than
and less than fifty dollars, the docket fee shall be
ents; and when fifty dollars or over, the docket fee
e one dollar; the said docket fee shall be charged
the costs of the case.

1308. Cherokee County—There shall be twelve Mag- Cherokee
County.
s appointed in Cherokee County, two of whom shall Civ. '02. §
1013; 1909,
XXVI, 100.
in Gaffney, one at Blacksburg, one at Cherokee Falls,
ar Antioch church, one near Asbury, one near Dray-
e, one between Wilkinsville and Skull Shoals, one
zells, one in the lower section of Morgan Township,
White Plains Township, one in Limestone Town-
north of Gaffney. Each of said Magistrates shall be
salary of sixty (\$60) per annum, payable quarterly.
the Magistrates at Gaffney, who shall be paid two
ed and fifty (\$250) dollars each, and the Magistrate
cksburg shall be paid one hundred and seventy-five
dollars; and they are hereby required to keep offices
olic places in Gaffney and Blacksburg. Each of said
trates, except the Magistrates at Gaffney, shall appoint
stable, and each Constable shall give a bond, to be
ved by the Clerk of the Court of Cherokee County, in
m of three hundred (\$300) dollars, for the faithful
rmance of his duties, and they shall be allowed the
ow prescribed by law for their services, payable quar-
when duly itemized and sworn to after the approval
e County Supervisor, and no fees shall be paid except
rein provided: *Provided*, In the absence of any duly
nted Constable the Magistrate may appoint a special
able, who shall be paid by the duly commissioned Con-
when he collects his fees, as above provided; and the
strates resident at Gaffney shall direct all their papers
processes to the Sheriff of Cherokee County, or his
ies, who shall be paid as above provided: *Provided*.
er, No Magistrate shall discontinue, compromise, settle
miss any prosecution unless all fees and costs incident

A. D. 1912.

to such prosecution are first paid to the Magistrate settles, discontinues, compromises or dismisses said prosecution, who shall pay said fees into the County treasury; no Magistrate or Constable shall receive any fees or for his services until the Magistrate's criminal docket has been examined and approved by the County Supervisor and said Supervisor is hereby directed to furnish each Magistrate with a criminal docket; and no Magistrate shall appoint as his regular Constable any person who is not qualified to said appointing Magistrate within the third degree.

Chester
County.

Civ. '02, §
1014; 1908,
XXV, 1135.

Sec. 1309. Chester County—There shall be eight Judicial Districts, and one Magistrate and one Constable be appointed for each of said districts. The First Judicial District shall be composed of Courthouse, Chester and Sandy River Townships; salary of Magistrate, three hundred and seventy-five dollars, and fifty dollars for rent; salary of Constable, three hundred and twenty dollars per annum, to be paid in lieu of all costs, charges and mileage in criminal matters, and he is hereby authorized and directed to serve anywhere within the County limits criminal processes issued by the Magistrate of said district. The Second Judicial District shall be composed of Lewis Township; salary of Magistrate, two hundred dollars; salary of Constable, one hundred dollars per annum. The Third Judicial District shall be composed of Lancaster Township; salary of Magistrate, one hundred and fifty dollars; salary of Constable, eighty-five dollars per annum. The Fourth Judicial District shall be composed of Middleville Township; salary of Magistrate, one hundred dollars; salary of Constable, seventy-five dollars per annum. The Fifth Judicial District shall be composed of Baton Rouge Township; salary of Magistrate, one hundred and twenty-five dollars; salary of Constable, eighty-five dollars per annum. The Sixth Judicial District shall be composed of Haselville Township; salary of Magistrate, one hundred dollars; salary of Constable, seventy-five dollars per annum. The Seventh Judicial District shall be composed of Herwood Township; salary of Magistrate, one hundred dollars; salary of Constable, seventy-five dollars per annum. The Eighth Judicial District shall be composed of Blacksburg Township; salary of Magistrate, one hundred dollars

A. D. 1912.

Constable, seventy-five dollars per annum. All the Constables of said County shall, in addition to their regular salaries, as now provided by law, receive five dollars per mile, one way, for the shortest route necessarily traveled in transporting and delivering prisoners to the County chaingang or the County jail, as the Supervisor may direct.

1310. Chesterfield County—Nine Magistrates shall be appointed for Chesterfield County, one for each Township, who shall reside therein, and one at or near Brock's Mill, whose salaries in criminal matters shall be as follows: Magistrate for Cheraw Township, two hundred and twenty-five (\$225) dollars: *Provided*, That when there is no Magistrate or Constable appointed and serving for Steerpen, the salaries herein provided for the Magistrate and Constable at Steerpen, shall be paid to the Magistrate or Constable at Cheraw, respectively; for Chesterfield courthouse, two hundred and fifty (\$250) dollars: *Provided*, He is required to attend all Courts of General Sessions for Chesterfield County; for Jefferson, one hundred and fifty dollars; Mount Croghan, one hundred and fifty dollars; and Alligator, one hundred (\$100) dollars: *Provided*, The Magistrate at Alligator be required to open court at least one day in each week at McBee; for Old Fort, one hundred and fifty (\$150) dollars; for Cole Hill, Steerpen and Brock's Mill, each one hundred (\$100) dollars. Salaries herein provided for Magistrates shall cover all services in criminal matters, including holding inquests and preliminary examinations over dead bodies when held by Magistrates. Each of these Magistrates shall appoint a Constable, who shall give bond as hereinafter provided, and shall receive the same salary as the Magistrate appointing him; except at Chesterfield courthouse, where his salary shall be one hundred and seventy-five (\$175) dollars; and his salaries shall be in full compensation for all services in criminal matters, and inquests held by the Magistrate appointing them; except that they receive five (5) cents per mile going and returning by the nearest route, from the residence of the Magistrate whom they serve to the jail or chaingang, as the case may be, when required to take prisoners, and the same mileage, one way, for each person so carried.

Chesterfield
County.Civ. '02, §
1015; 1910,
XXVI, 599.

A. D. 1912.

That when any person shall be appointed Constable he shall enter into bond before the Clerk of Court of the County in the penalty of two hundred (\$200) dollars, with good security, to be approved by the said Clerk of Court. and upon taking the oath prescribed by law, such person shall be regarded as a regularly qualified Constable; nor shall any person not so qualified exercise the power of a Magistrate's Constable: *Provided*, That nothing shall prevent a Magistrate from appointing the Sheriff of the County or a special Constable for a special occasion, to be specified in writing in case the regular Constable cannot exercise the powers of a Constable: *Provided, further*, That the special Constable so appointed shall enter into bond in the usual form before the Magistrate appointing him, in which event the said special Constable (or the Sheriff) shall be entitled to the fees heretofore provided.

Clarendon
County.

Civ. '02, §
1016; 1906,
XXIV, 886.

Sec. 1311. Clarendon County—Magistrates shall be appointed in Clarendon County: One shall reside in the town of Manning; one at or near New Zion Church; one at Foreston; one at Pinewood; one at or near Paxville; one at or near St. Paul's; one at or near Turbeville. The Magistrates appointed to serve outside of the town of Manning shall each appoint one person to act as Constable in serving the processes of their respective Courts, removable at pleasure. It shall be the duty of the Sheriff of Clarendon County to perform all the duties of Constable for the Magistrate at Manning, in criminal cases, without receiving any extra compensation therefor. In lieu of all fees and costs for criminal proceedings heretofore paid them by the County, the Magistrate at Manning and the Magistrate at or near St. Paul's shall be allowed a salary of three hundred dollars per annum, and each of the other Magistrates the sum of one hundred dollars; and each Constable appointed as aforesaid shall receive a salary of seventy-five dollars per annum, except the Constable to the Magistrate at or near St. Paul's whose salary shall be one hundred dollars per annum. Said salaries shall be payable quarterly, on the first of January, April, July and October, by the County Treasurer, out of the County funds, upon the order of the County Supervisor. Each Magistrate so appointed shall give bond of five hundred dollars for the faithful performance of his duties, to be

A. D. 1911

ved by the Clerk of the Court of Common Pleas of
ndon County.

1312. Colleton County—There shall be twelve Colleton
County. Magistrates in the County of Colleton, including the Magistrate for Osborne, provided for by Act, approved February Civ. '02,
1917; 1900
XXIV, 39. 1902; one of whom shall hold his Court in the town of Walterboro. Each of said Magistrates is authorized and empowered to appoint a Constable for his Court, who upon appointment, taking the oath of office and filing his return as now required by law, shall have all the powers and perform all the duties of a Constable. Each of the said Magistrates and Constables shall receive an annual salary of twenty-five dollars; except the Magistrate appointed for Walterboro, who shall receive a salary of one hundred and twenty-five dollars per annum, and except the Constable appointed for Walterboro, who shall receive an annual salary of one hundred and twenty-five dollars; such salaries to be in lieu of all costs against the County, including inquisitions, when said Magistrates shall be acting as Coroner: *Provided*, That any of the Magistrates in the said County, who having been duly deputed by the Coroner of said County to hold inquests, when so doing shall divide with the Coroner, one-half of the fees now provided by law for the Coroner: *And, further*, That said Magistrates and Constables shall be entitled in addition to the salary herein provided to receive fees and costs in civil cases, and that said Constables shall also receive five cents for each mile traveled in conveying prisoners to the County jail. Each Constable shall be required to make return upon oath, on all warrants placed in his hands for execution by said Magistrate, at the expiration of ten days, when failing to effect execution, and upon failing to make such return shall be liable to a forfeit of two dollars for each offense, said forfeit to be deducted from his salary by the County Board of Commissioners upon information given to them by the Magistrate duly certified under his hand and seal.

1313. Darlington County—There shall be appointed Darlington
County Magistrates for Darlington County, one each at Darlington, Hartsville, Society Hill, Dovesville and Lamar. Civ. '02, §
1018; 1900,
XXVI, 102;
1910, XXVI,
600. Magistrates in Darlington County shall receive the following compensation: The Magistrate at Darlington, five

A. D. 1912.

hundred and fifty (\$550) dollars per year: *Provided, ever,* That it shall be the duty of the County Commission to provide for the Magistrate at Darlington court house office in the court house building; the Magistrate at Hartsville, three hundred and fifty (\$350) dollars per year; the Magistrate at Society Hill, one hundred and fifty (\$150) dollars per year; the Magistrate at Lamar, two hundred and twenty (\$220) dollars per year; the Magistrate at Hartsville, one hundred and fifty (\$150) dollars per year. Magistrates at Hartsville, Society Hill, Dovesville and Lamar shall appoint one Constable each, who shall receive an annual salary as follows: The Constable at Hartsville shall receive three hundred and fifty (\$350) dollars; the Constable at Society Hill shall receive one hundred and fifty (\$150) dollars; the Constable at Lamar shall receive three hundred (\$300) dollars; the Constable at Dovesville shall receive one hundred and fifty (\$150) dollars. The Sheriff of Darlington County and his regular appointed Deputies shall act as Constable for the Magistrate at the Darlington court house, and shall serve all criminal process issued without any additional compensation to the Sheriff; he receives as Sheriff, and shall serve all civil process issued by said Magistrate when so requested and shall receive the same the fees now allowed by law to Magistrates and Constables for said service.

The Magistrates in Darlington County shall have jurisdiction throughout the County. The Magistrate appointed hereunder at Darlington court house shall have jurisdiction of all cases now pending or pending at the time of appointment in all Magistrates' courts at Darlington court house. The Magistrates' and Constables' salaries shall be payable quarterly, on the first day of January, April, July and October: *Provided,* That no Magistrate shall be paid until all reports now required by law shall be in the hands of the proper officers and all fines properly accounted for and the above mentioned annual salaries shall be paid in lieu of all costs in criminal cases: *Provided,* That the Constable shall receive five cents per mile each way in conveying prisoners or the chaingang by the most direct route, in addition to the actual expenses incurred in transportation: *And provided, further,* That the

A. D. 1912.

Magistrates shall hold inquests when necessary, and the sum of two dollars and fifty cents for viewing the body and granting a burial permit, and five dollars for holding an inquest. The Constables of Darlington shall give bond in the sum of two hundred dollars, approved by the County Supervisor.

1314. Dillon County—There shall be appointed for Dillon County Magistrates as follows, who shall receive salaries hereinafter stated as compensation for all costs incurred in criminal cases and on inquests acting as Coroner: Magistrate at Dillon, with an annual salary of three hundred (\$300) dollars, who shall appoint a Constable at an annual salary of two hundred (\$200) dollars; one Magistrate at Campbell's Bridge, with an annual salary of eighty dollars, who shall appoint a Constable at an annual salary of eighty (\$80) dollars; one Magistrate at Latta, at an annual salary of two hundred (\$200) dollars, who shall appoint a Constable at an annual salary of one hundred and twenty-five (\$125) dollars; one Magistrate at Forks, at an annual salary of one hundred (\$100) dollars, who shall appoint a Constable at an annual salary of one hundred dollars; one Magistrate at Hamer, at an annual salary of one hundred and twenty (\$120) dollars, who shall appoint a Constable at an annual salary of one hundred and twenty (\$120) dollars; one Magistrate at Judson, at an annual salary of eighty (\$80) dollars, who shall appoint a Constable at an annual salary of eighty (\$80) dollars; one Magistrate at Gaddy's Mill, at an annual salary of one hundred (\$100) dollars, who shall appoint a Constable at an annual salary of one hundred (\$100) dollars; one Magistrate at Bingham, at an annual salary of seventy-five (\$75) dollars, who shall appoint a Constable at an annual salary of seventy-five (\$75) dollars; one Magistrate at Little Rock, at an annual salary of seventy-five (\$75) dollars, who shall appoint a Constable at an annual salary of seventy-five (\$75) dollars; one Magistrate at Kemper, with an annual salary of seventy-five (\$75) dollars, who shall appoint a Constable at an annual salary of seventy-five (\$75) dollars. All of said Magistrates and Constables shall have all the powers and be subject to all duties now provided by law: Provided, That any Magistrate may direct his papers to

Dillon County.
1910. XXVI,
601.

A. D. 1912.

the Sheriff for service, and in such cases the Sheriff shall serve same and receive therefor the same fees as are allowed by law to Constables for same service, except papers directed to the Sheriff by Magistrate at Dillon, the payment for this special service being otherwise provided by law.

Dorchester
County.

§ 1019.

Sec. 1315. Dorchester County—There shall be appointed in the County of Dorchester seven Magistrates, one at each of the following places: Saint George, Harleyville, Ridgeville, Reevesville, Summerville, Delemars and Knightsville. That each of said Magistrates shall have jurisdiction throughout the County in both civil and criminal matters within his jurisdiction. Each of said Magistrates shall receive an annual salary as follows, to wit: Magistrate at Saint George, two hundred (\$200) dollars; Magistrate at Harleyville, one hundred and twenty-five (\$125) dollars; Magistrate at Ridgeville, one hundred and fifty (\$150) dollars; Magistrate at Reevesville, seventy-five (\$75) dollars; Magistrate at Summerville, one hundred and fifty (\$150) dollars; Magistrate at Delemars, seventy-five (\$75) dollars, and the Magistrate at Knightsville, seventy-five (\$75) dollars. That each of said Magistrates shall appoint one Constable, who shall not be related to the said Magistrate by affinity or consanguinity within the third degree, and the said Constable shall receive an annual salary equal to the salary of the Magistrate appointing him. That all costs and fees in criminal cases shall be turned over to the County Treasurer of said County, to be applied as now provided by law. That the said annual salaries paid to said Magistrates and Constables shall be in lieu of all costs and fees in criminal cases, except as hereinafter provided. That the nearest of said Magistrates shall hold inquest, and for the holding of each inquest he shall receive the sum of five (\$5.00) dollars. That said Magistrates shall hold inquests only when it is not convenient for the Coroner of said County to do so. That said Constables shall receive mileage at the rate of four (4) cents per mile both ways when conveying prisoners to the County jail or to the County chaingang, and shall receive like mileage one way for prisoners so conveyed. That for services rendered in criminal cases for the failure to pay poll tax, said Magistrates and Constables shall receive

A. D. 1912.

ir costs and fees: *Provided*, That said costs and fees be lected out of and paid by defendants.

All Magistrates in and for the County of Dorchester shall required to attend the Court of General Sessions for Dor-
Magistrates in Dorchester County to attend Court.
 1909, XXVI.
 135.
 uester County, at Saint George, in said County, at each
 sion of said Court, and for the time they attend said
 ourt they shall receive the same per diem and mileage as
 rors receive for like service, to be paid in the same manner
 jurors are paid.

All Magistrates in Dorchester County shall file with the
 lerk of the Circuit Court monthly reports of all
 arrants issued by them, suitably numbered, with the dis-
 osition of same, if tried, compromised or dismissed, or
 ses withdrawn. It shall be the duty of the County Attor-
 ey of said County to examine said reports and to certify
 hether the said returns are filed in accordance with this
 ection, and if not, he shall so certify, whereupon the salary
 f said Magistrate or Magistrates shall be withheld until
 aid reports are filed in accordance herewith. That it shall
 e the duty of the Supervisor of said County to furnish
 Magistrates with suitable blank forms upon which to file
 he reports as herein provided.

Sec. 1316. Edgefield County—There shall be in Edge-
 field County eight Judicial Districts, as follows, to wit: The
 First District shall embrace those parts of Wise and Pickens
 Townships not in District 2. The Second District shall
 embrace Shaw Township, and that portion of Meriweather,
 Wise and Pickens Townships within the following limits,
 to wit: East of old Stage Road from Kendricks, by the
 Tillman place, Mt. Vintage to Mays, and then turn to the
 right, leaving the old Stage Road, and go by the Gray
 place, crossing the old Plank Road between Walter Miller's
 and Barr place, thence around by Rock Quarry to intersect
 the Weaver Road at T. G. Smith's, thence to J. De Loach's,
 thence leaving the Weaver Road, taking the road by Har-
 mony Church on to Mark Toney's, thence to road leading
 to Holmes' Mill, thence to where this road enters the Aiken
 Road, near Timmerman's. The Third District shall embrace
 those portions of Johnston, Mobley and Ward Townships
 remaining in Edgefield County. The Fourth District shall
 embrace Gregg and Collier Townships, and that portion of

Magistrates
 in Dorchester
 County to file
 with Clerk of
 Court month-
 ly reports.

1907, XXV.
 612.

County at-
 torney to ex-
 amine re-
 turns.

Edgefield
 County.

Civ. '02. §
 1020; 1907,
 XXV, 562.

A. D. 1912.

Meriweather Township not embraced in the Second District. The Fifth District shall embrace Washington and Ryan Townships. The Sixth District shall embrace Collins Township. The Seventh District shall embrace Talbert, Moss and Hibler Townships. The Eighth District shall embrace Blocker Township, that portion of Grey Township lying south of the line surveyed from Greenwood County, and that portion of Pine Grove Township remaining in Edgefield County, and that part of Pickens Township lying north of Little Turkey Creek, and west of a straight line running from a point on said creek five hundred yards above the bridge, on the road between Capt. J. C. Brook's and estate of John Harris, in a northeasterly direction to the Saluda County line, at a point fifty yards north of Calvary Church. The office of the Magistrate of the First District shall be at Edgefield Court House, and his salary shall be one hundred and seventy-five (\$175) dollars per annum: *Provided, however,* That the civil and criminal jurisdiction of the Magistrate of the First District shall not be confined to that District, but shall extend over the whole County of Edgefield, except that the trial and examination of criminal cases shall be had before the Magistrate in whose District the offence occurred. The office of the Magistrate of the Second District shall be at Trenton, and his salary shall be one hundred and twenty-five dollars (\$125.00) per annum. The office of the Magistrate of the Third District shall be at Johnston, and his salary shall be one hundred and fifty dollars (\$150.00) per annum. The office of the Magistrate of the Fifth District shall be at Parksville, and his salary shall be one hundred and twenty-five dollars (\$125.00) per annum. The salary of the Magistrate of the Seventh District shall be one hundred and twenty-five dollars (\$125.00) per annum. The salary of the Magistrate of the Sixth Judicial District shall be seventy-five dollars (\$75.00) per annum. The salaries of the remaining Magistrates shall each be one hundred dollars (\$100.00) per annum. All of the Magistrates holding office under the provisions of this Section are authorized and empowered to appoint and employ a suitable person to act as Constable, who shall receive from the County, as compensation for his services, a salary equal to twenty-five dollars less than the amount received by the

A. D. 1912.

ate making such appointment, which shall be paid in the same manner. In addition to the salaries hereinabove provided, the Magistrates in Edgefield County shall receive a salary of five dollars for each inquest held by them: *Provided*, that if the Coroner of Edgefield County has notice of the necessity of an inquest before the same is holden, or if the same be within fifteen miles of the Court House, one-half the amount paid to the Magistrate shall be deducted from the salary of the Coroner by the County Commission.

Provided, further, No Magistrate shall have a right to hold an inquest in Edgefield County if notified by the Coroner that he intends to hold the same, nor unless the necessary requirements of the law of this State as to the manner of holding an inquest have been complied with. The Magistrates of Edgefield County shall receive no other compensation for holding inquests than herein provided.

§ 317. The County of Fairfield is divided into four Judicial Districts. The First District embraces Feaster Township. The Second District embraces Rock Creek Township. The Third District embraces Brice Township. The Fourth District embraces Jackson Creek Township. The Fifth District embraces Gladden's Grove Township. The Sixth District embraces Wateree Township. The Seventh District embraces Mount Zion and Oakland Townships. The Eighth District embraces so much of Ridgefield and Bear Creek Townships as indicated by the following boundaries, to wit: Beginning at a point in Bear Creek Township on the line between the Counties of Kershaw and Fairfield at the residence of W. Perry; then in a straight line in northerly direction by way of the residence of J. Cloud; thence along the public road in north and westerly direction by way of the residence of F. M. J. D. Joiner and others to the old Johnson place; then cornering and running in westerly direction by the neighborhood road leading to Dr. Campbell's; thence westward by way of residence of Mrs. Craig, John Taylor and the shortest public or neighborhood road to the Poor House of Fairfield County, on boundary line between Ridgefield and Greenbrier Townships; then cornering and running south along the line between said Townships to lines separating the Counties of Richland and Fairfield; then

Fairfield County.

Civ. '02. §	
1021 ;	1904.
XXIV,	401 ;
1908,	XXV.
1180.	

A. D. 1912

cornering and running east on said line separating said Counties, to starting point at or near the residence of the said W. Perry. The Ninth District embraces Simpson Township and the portions of Ridgeway and Bear Creek Townships lying to the north and northeast of the territory embraced in the Eighth District heretofore described, and not included in said district. The Tenth District embraces Greenbrier Township. The Eleventh District embraces Horeb Township. The Twelfth District embraces Jenkinsville Township; and the Thirteenth District embraces all of Bear Creek Township except that portion thereof lying north of the road leading from H. L. Compton's to Nelson's Mills and west of Bull Neck road. The Fourteenth District embraces the territory in the following boundaries: Start at the mouth of Big Dutchman Creek and follow the river to the Chester line, and thence along said line to the intersection of the public road leading from Rossville to Winnsboro by the Grafton place; thence along said road to Old Gladden's Grove; thence along public road through LaGrange farm in a southerly direction straight to Mt. Moriah Church; thence along public road by Poplar Church to place known as D. H. Ruff's on Big Dutchman's Creek, and thence in a northeastern direction along Big Dutchman's Creek to Wateree River.

One Magistrate shall be appointed for each of said Judicial Districts, who must reside or hold his office within the limits of his district, except the Magistrate for the Seventh Judicial District, who must reside at Winnsboro, in said District. They shall have exclusive jurisdiction within the limits of their respective districts in all prosecutions triable by them, and in prosecutions cognizable by the Court of Sessions, they shall have jurisdiction throughout the County. But prosecutions may be removed from one Magistrate to another for the causes and in the manner now provided by law; and nothing contained in this Section shall be construed to interfere with the endorsing of warrants by a Magistrate in order to authorize their execution, or with the execution or service of warrants and other papers in any portion of said County, or with the jurisdiction of two Magistrates sitting together in cases now provided by law.

A. D. 1012.

may appoint one person to act as his Constable in
g and executing such process as he may issue.

The Sheriff of the County may be authorized to serve and
the process in all criminal prosecutions cognizable by the
of Sessions.

The Magistrates of Fairfield County shall receive com-
pensation as follows: For each of the districts, Nos. 1, 2, 3,
3, 8, 11, 12, 13 (\$75.00), seventy-five dollars each, and
Constables the same amount each. The Magistrate in

(Winnsboro) shall receive two hundred dollars, and
Constables one hundred dollars; and the Magistrates of
Districts 9, 10 and 14, one hundred and fifty dollars each, and
Constables one hundred dollars each, to be paid quar-
terly as now provided by law.

It shall be the duty of each and every Magistrate in and
the County of Fairfield to make a full and complete
written report quarterly to the County Auditor and County
Treasurer of all fines and licenses and any other moneys
collected, and pay the same to the County Treasurer before
a warrant is issued by the Board of County Commissioners
for the salary of said Magistrate.

§ 1318. Florence County—There shall be eight Magis-
trates in Florence County, to be located as follows:
Florence Township, one at a salary of five hun-
dred (\$500) dollars; one at Timmons ville, at a salary of

three hundred (\$300); one in Pee Dee or Hannah, who
shall hold court at both Savage and Hannah as necessary,
at a salary of one hundred and fifty (\$150) dollars; one in
Carter'sville, at a salary of one hundred and fifty (\$150) dollars;
and one in McMillan, at a salary of seventy-five (\$75)
dollars; one at Motts, who shall hold court at Beulah, at a
salary of one hundred (\$100) dollars; one in Effingham and
Lynch, who shall hold court as necessary at Coward's, at
a salary of two hundred (\$200) dollars. Each Magistrate
shall have the power to appoint one Constable, except the
Magistrate in Effingham and Lynch, who shall have the
power to appoint two Constables, one in Effingham Town-
ship and one for Lynch Township, and the Constable so
appointed shall receive salaries respectively as follows:
Constable in Florence, three hundred (\$300) dollars;

Compensa-
tion.
1908, XXV.
1189.

Quarterly
reports.
1900, XXVI.
178.

Florence
County.
Civ. '02. §
1022; 1900,
XXVI. 103.

A. D. 1912.

Effingham, one hundred and fifty (\$150) dollars; Lynch, fifty (\$50) dollars; Timmonsville, two hundred and forty (\$240) dollars; Pee Dee and Hannah, one hundred (\$100) dollars; Motts, Cains and Cartersville, each one hundred (\$100) dollars; McMillan, seventy-five (\$75) dollars. Said salaries for Magistrates and Constables to be paid in lieu of all costs and fees in criminal cases. Each Constable shall receive five cents per mile each way in the most direct route to make arrests and deliver prisoners, and in Florence the Sheriff or his deputies may be employed to serve as Constables: *Provided*, That Magistrates acting for the Coroner in holding inquests shall be paid for such service as extra compensation the sum of two and one-half (\$2.50) dollars for each and every day so engaged. The County Commissioners shall furnish to all Magistrates in the County all legal blank forms used in criminal cases that are necessary in their official duty. Each Magistrate shall keep in a book provided for that purpose all receipts to him from the County Treasurer for all fines and costs collected in his Court, which shall be itemized, and such receipts shall be delivered with the docket of each Magistrate to the Board of County Commissioners at least once in every three months.

Georgetown
County.

Civ. '02, §
1023; 1910,
XXVI, 603.

Sec. 1319. Georgetown County—Seven (7) Magistrates shall be appointed for the County of Georgetown, one for the southern section (No. 1 Township), who may reside in No. 3 Township; one in the western section (No. 2 Township); one in the city of Georgetown (No. 3 Township); one in the southwestern section (No. 4 Township), who shall reside in the town of Andrews; one in the northeastern section (No. 5 Township); one in the northern section (No. 6 Township); one in the eastern section (No. 7 Township) of the County; their jurisdiction shall extend all over the entire County. Each of the Magistrates, except the one residing in the city of Georgetown, may appoint a person to act as Constable in serving and executing processes issued by him. The salaries of said Magistrates and their Constables shall be as follows: The Magistrate in the city of Georgetown, two hundred and fifty (\$250) dollars; in the northeastern section (No. 5 Township), two hundred (\$200) dollars; in the southern section (No. 1 Township), two

A. D. 1912.

and twenty-five (\$225) dollars; and all other Magistrates in the County shall receive a salary of one hundred dollars (\$150) dollars per annum. Each of the Constables appointed by said Magistrates shall receive a salary of fifty (\$75) dollars per annum, except the Constable appointed by the Magistrate residing in the northeastern (No. 5 Township), who shall receive a salary of one hundred (\$100) dollars per annum; and the salaries of all Magistrates and Constables shall be in lieu of all fees, and charges in criminal cases. The Sheriff of said County shall be required to act as Constable for the Magistrate in the County without additional compensation, for cases committed or cases tried in No. 3 Township. The Sheriff may be authorized to serve and execute processes by any of said Magistrates in criminal prosecutions by the Court of Sessions, and shall receive therefor the fees allowed by law for such services. The Magistrate appointed shall each give a bond of five hundred dollars, and each Constable a bond of two hundred dollars (\$250) dollars, with good and sufficient security, for faithful performance of their respective duties; said bonds to be approved by endorsement thereon in writing by the Judge of the Twelfth Circuit.

1320. Greenville—There shall be appointed twenty Magistrates for Greenville County, as follows: Two for the City of Greenville, at a salary of four hundred dollars each, with jurisdiction and powers as now provided by law; and one each for Bates, O'Neill, Glassy Mountain, Highland, and, Dunklin, Gantt, Paris Mountain, Saluda, Oak and Butler Townships, at a salary of seventy-five dollars per year each; one for Austin Township, at a salary of eighty dollars per year; and one for Fairview Township, at a salary of ninety dollars per year, with jurisdiction in their respective Townships of all cases triable by Magistrates, and in all other matters as now prescribed by law. Two for Grove Township, having concurrent jurisdiction with said Township of all matters triable by Magistrates as provided by law, one of whom shall have his office at the Court House, and shall receive a salary of ninety dollars per year, and whose Constable shall receive a salary of one hundred and fifty dollars per year, and the other of whom shall

Greenville
County.
Civ. '02, §
1024; 1005;
XXIV, 883;
1907, XXV,
586; 1910,
XXVI, 603.

A. D. 1912.

receive a salary of seventy-five dollars per year; two for Butler Township, with concurrent jurisdiction in said Township of all matters triable by Magistrates, as now provided by law, and each to receive an annual salary of seventy-five dollars, and one of whom shall have his office at Butler in said Township; two for Chick Springs Township, with concurrent jurisdiction in said Township of all matters triable by Magistrates, as now provided by law, and one of whom shall have his office at the town of Greers, in said Township, and shall receive a salary of two hundred and fifty dollars per year, and the other of whom shall receive a salary of seventy-five dollars per year. The Magistrate and Constable at Traveler's Rest shall each receive a salary of one hundred and twenty (\$120) dollars. Each of the aforesaid Magistrates shall appoint a Constable, and each of whom shall receive a like salary with the Magistrate appointing him, except in the city of Greenville, where the Constables shall receive three hundred dollars each per annum, and the Constables of the Magistrate at Traveler's Rest who shall receive one hundred and fifty dollars per annum. The County Supervisor shall furnish all of said Magistrates with all necessary stationery and blanks for criminal business.

Baker v. Irvine, 61 S. C., 114; 39 S. E., 252.

Greenwood
County.

Civ. '02, §
1025; 1910,
XXVI. 606.

Sec. 1321. Greenwood County—Twelve Magistrates shall be appointed for Greenwood County, and no more; one shall be commissioned for each of the following places: Greenwood, Ninety-Six, Hodges, Troy, Bradley, Varnersville, Coronaca, Ware Shoals, Gaines, Lyons, Cambridge, and Wareville; each shall have his office at the place for which he shall be appointed: *Provided*, The Magistrate commissioned for Gaines shall be authorized, in his discretion, to designate Kirksey as the place for the hearing of any cause coming within his jurisdiction or to be investigated by him: *Provided, further*, That the Magistrate commissioned for Hodges shall be authorized, in his discretion, to designate Cokesbury as the place for hearing of any cause coming within his jurisdiction: *Provided, further*, That the Magistrate commissioned for Cambridge shall be authorized, in his discretion, to designate Kinard's Store as the place for hearing any cause coming within his jurisdiction.

A. D. 1912.

Magistrate shall receive as compensation for his services, in lieu of all costs and fees in criminal cases, such as are hereby designated for each, to wit: The Magistrate of Greenwood shall receive three hundred and fifty dollars; the Magistrate at Ninety-Six shall receive one hundred and fifty (\$250) dollars; the Magistrate at Wadega shall receive one hundred (\$100) dollars; the Magistrate at Gaines shall receive seventy-five (\$75) dollars; the Magistrate for Hodges shall receive seventy-five (\$75) dollars; the Magistrate at Troy shall receive seventy-five (\$75) dollars; the Magistrate for Verdery shall receive seventy-five (\$75) dollars; the Magistrate for Cambridge shall receive seventy-five (\$75) dollars; the Magistrate for Ware Shoals shall receive two hundred (\$200) dollars; the Magistrate at Lyons shall receive one hundred (\$100) dollars; the Magistrate for Wareville shall receive one hundred (\$100) dollars per annum. In addition to their salaries they shall receive, when called for to act as Coroner, the fees allowed by law for such services. Each Constable shall receive for such services sums as hereby designated, as follows, to wit: The Constable for the Magistrate for the city of Greenwood shall receive two hundred and fifty (\$250) dollars per annum; the Constable at Ninety-Six shall receive a salary of one hundred and fifty (\$150) dollars; the Constable of Wadega shall receive a salary of one hundred (\$100) dollars; the Constable of Hodges shall receive a salary of seventy-five (\$75) dollars; the Constable of Gaines shall receive seventy-five (\$75) dollars; the Constable of Lyons shall receive one hundred (\$100) dollars; the Constable of Wareville shall receive seventy-five (\$75) dollars; the Constable at Troy shall receive seventy-five (\$75) dollars; the Constable at Verdery shall receive seventy-five (\$75) dollars; the Constable at Cambridge shall receive seventy-five (\$75) dollars; the Constable at Ware Shoals shall receive two hundred (\$200) dollars, and the Constable at Wareville shall receive one hundred (\$100) dollars. Said Constables shall be paid in addition to their salaries for conveying prisoners to jail or to the chaingang at the rate of six cents per mile of necessary travel, computed from the office of the Magistrate to the jail or chaingang, as the case may be. The salaries and other compensation of Magistrates and Con-

A. D. 1912.

stables, as herein provided, shall be due and payable quarterly, upon the order of the County Supervisor, and the County Board of Commissioners be authorized and required to furnish Magistrates with the necessary blanks used in criminal cases. Each of said Magistrates shall collect and pay over to the County Treasurer all costs or fees to which he or the Constables employed or appointed by him would have been entitled but for the provisions of this Section, together with all fines collected. He shall, at least ten days prior to each term of the Court of General Sessions of the County, make out and file with the Clerk of said Court a certified transcript of his criminal docket, which shall show the amount of fees, costs and fines imposed, and the amount collected thereon, which transcript shall be for the grand jury, and shall be in lieu of the investigation of the books and records of the Magistrates of the County as now provided by law.

Hampton
County.

Civ. '02, §
1026; 1907,
XXV, 567;
1909, XXVI,
178.

Sec. 1322. Hampton County—There shall be appointed for the County of Hampton seven Magistrates: Two for People's Township (one to reside in the town of Brunson.) who shall receive a salary of one hundred and twenty-five dollars each, annually; one for Pocotaligo Township, who shall receive a salary of one hundred and twenty-five dollars; one for Coosawhatchie Township, who shall receive a salary of two hundred dollars; one for Robert Township, who shall receive a salary of one hundred and fifty; one for Goethe Township, who shall receive a salary of one hundred and fifty dollars; one for Lawton Township, who shall receive a salary of two hundred dollars. That each of said Magistrates shall appoint a Constable at a salary each equal in amount with the Magistrate appointing said Constable. That said Magistrates and Constables so appointed shall reside in the Townships for which they are appointed: and the salaries so provided herein for said Magistrates and Constables shall be in lieu of all costs, in criminal cases, including the holding of all inquests. That each of said Magistrates so appointed shall pay over to the County Treasurer all fines and costs collected by them in criminal cases, and shall enforce the game law of the State. Each Magistrate holding an inquest shall receive therefor the sum of five (\$5) dollars.

A. D. 1912.

shall be the duty of each and every Magistrate in or the County of Hampton to make a full and itemized report quarterly to the County Auditor and County Treasurer of all fines and licenses and any other fees collected, and pay the same to the County Treasurer. When a warrant is issued by the Board of County Commissioners for the salary of said Magistrate.

1323. Horry County—Magistrates for Horry County Horry County.
 be located as follows, and receive the salaries named Civ. '02, § 1027; 1900, XXVI, 105.
 annum: Conway, two hundred dollars; Adrian, Loris, Floyds, sixty dollars; Bucks, Green Sea and Little, fifty dollars; Bayboro, Cool Springs, Dog Bluff, Wood, Ebenezer, Gallivants, Simpson, Spring Branch, Lee and Wampee, forty dollars each. Constables to receive the same salaries as the Magistrates appointing them. In addition to their other duties prescribed by law, it is hereby also made their duty to enforce the provisions of the law relating to fences in Horry County. A failure so to do, in the judgment of two nearest Magistrates, shall work a forfeiture of ten dollars of his salary for each conviction, to be deducted by Supervisor from said Constable's warrant.

1324. Kershaw County—There shall be appointed Kershaw County.
 Kershaw County eight Magistrates, one for DeKalb Civ. '02, § 1028; 1900, XXVI, 105.
 ship, who shall have his office in the city of Camden, shall receive a salary of six hundred dollars; three for each Township, one of whom shall have his office in the town of Bethune, and shall receive a salary of one hundred and fifty dollars; one of whom shall have his office in that part of the town of Kershaw which is situate in Kershaw County, and shall receive a salary of one hundred and fifty dollars, and one at large, who shall receive a salary of one hundred dollars; two Magistrates each for Wateree and Flat Shoals Townships, who shall each receive a salary of one hundred dollars. Each of said Magistrates shall appoint a Constable, who shall receive the same salary as the Magistrate appointing him. All of said salaries shall be paid quarterly.

criminal prosecutions, cognizable by the Court of General Sessions, and when arrests in any case are made within the limits of the County, the Sheriff of the County

A. D. 1912.

Lancaster
County.Civ. '02, §
1020; 1909,
XXVI, 100.

may be authorized to serve and execute process, shall receive therefor the same fees as are now or hereafter may be allowed by law for such services.

Sec. 1325. Lancaster County—There shall be appointed for the County of Lancaster nine Magistrates, one for each Township in said County and one additional Magistrate for the Township of Pleasant Hill and Flat Creek Townships, who shall reside and keep his office in the township for which he is appointed. The Magistrate for Gillman Township shall reside at and keep his office at Lancaster Courthouse, and the Magistrate for Cane Creek Township shall keep his office at the Lancaster cotton mills. Each of the Magistrates appointed under the provisions of this Section shall be a resident of the Judicial District in which he is appointed, and shall reside therein during his term of office. In all criminal actions triable by the Magistrates shall have exclusive jurisdiction within the limits of their respective districts. In prosecutions commenced by the Courts of General Sessions and in all civil actions said Magistrates shall each have jurisdiction throughout the limits of the County. But prosecutions and civil actions may be removed from one Magistrate to another for the same cause and in the same manner as is now provided by law, and the Courts of Common Pleas shall have concurrent jurisdiction in all civil actions triable by Magistrates. In cases of sickness, absence or temporary disability of a Magistrate, the nearest Magistrate is hereby authorized to hear and determine any cause that may arise within the jurisdiction of the Magistrate so absent, sick or disabled as aforesaid. The Magistrates shall receive the following salaries: Magistrate at Lancaster Courthouse, three hundred and fifty dollars (\$350); Magistrate at Lancaster cotton mills, two hundred and fifty dollars (\$250); Magistrate for the Judicial District embracing Kershaw, one hundred and fifty dollars (\$150); the Judicial District embracing Heath Springs, one hundred dollars (\$100); and all other Magistrates in the County, each seventy-five (\$75) dollars. Each Magistrate shall appoint one Constable, and said Constable shall receive the same salary as the Magistrate making his appointment. The salaries to be paid as now provided for

A. D. 1912.

Magistrate shall receive additional compensation for inquests.

1326. Laurens County—The number of Magistrates in Laurens County shall not exceed nine, one for each of townships of Laurens, Cross Hill, Hunter, Jacks, town, Sullivan, Young, Dial and Waterloo. Each receive from the County as compensation for his service and in lieu of costs and fees in criminal cases, the following annual salaries to be paid at the end of each quarter, in installments, upon the warrant of the County Auditor, to wit: Magistrate at Laurens Courthouse, one hundred and fifty dollars; at Waterloo, one hundred dollars; at Clinton, two hundred dollars; at Cross Hill, one hundred and fifty dollars; and except that the Magistrate and Constable for Young's Township shall each receive an annual salary of seventy-five dollars; that the Magistrate and Constable for Jack's Township shall each receive an annual salary of \$75; that the Magistrate and his Constable for Scuffletown Township shall each receive an annual salary of \$75; that the Magistrate and his Constable for Sullivan's Township shall each receive an annual salary of \$75; and that there shall be an additional Magistrate appointed for Hunter Township, in said County, who shall hold his office at Mountville, in said Township and County, and his salary shall be fifty dollars per year, and the Constable, to be appointed by him, shall receive a like salary of fifty dollars per year; and all other in the County, each, shall receive fifty dollars. Magistrates' Constables at Laurens Courthouse, two hundred and twenty-five dollars; and in Dial's Township, seventy-five dollars; and all other Constables shall receive the same salaries received by the Magistrates appointing them. Each of the Magistrates is authorized and empowered to appoint and employ a person to act as Constable; and such Constable shall not receive any sum of money from the County or from any person for any service rendered by him in any criminal case under such employment or appointment, except as herein provided; but should any of the said Constables not perform any duty required of them, the Magistrate is authorized and required to employ

Magistrates in Laurens.	
Civ. '02.	1
1030:	1002:
XXIII.	908:
1907.	XXV.
570:	1008:
XXVI.	1049:
1910.	XXVI.
603.	

A. D. 1912

hold his court at DuBose Cross Roads; shall receive
 salary of seventy-five dollars, his Constable the same

1328. Lexington County—The County of Lexington
 divided into seven Judicial Districts. The first shall
 embrace all of Lexington, Hollow Creek, and all of Boiling
 Springs Townships, except that portion south of Scawter
 and Congaree Creeks. The second shall embrace Saluda
 and Broad River Townships, north of Spring Hill and Gil-
 bert Hollow Road, leading from Counts Ferry to mouth of
 Wateree Creek. The third shall embrace Fork Township
 and that portion of Saluda and Broad River Townships
 south of Spring Hill and Gilbert Hollow Road from Counts
 Ferry to mouth of Wateree Creek. The fourth shall embrace
 Hart Hollow and Chinquepin Townships. The Fifth
 shall embrace that portion of Boiling Spring Township
 north of Scawter and Congaree Creeks, Black Creek and
 a portion of Bull Swamp Township as per former
 judicial district line. The sixth shall embrace Platt
 Springs and Sandy Run Townships, and lower portion of
 Bull Swamp. The seventh shall embrace Congaree Town-
 ship. One Magistrate shall be appointed for each of said
 districts who shall be a resident of the district for which
 appointed, and the Magistrate of the District No. 1
 shall have his office at Lexington; the other Magistrates at
 such places from time to time most convenient to them in their
 respective districts. The said Magistrates shall have exclus-
 ive jurisdiction in cases, civil and criminal, triable by them,
 except in criminal prosecutions cognizable by the Courts of
 General Sessions. They shall have jurisdiction throughout
 the County, but cases may be removed from one Magistrate
 to another as now provided by law. Each Magistrate shall
 appoint a Constable for serving and executing process
 issued by him, who shall not be related either by consan-
 guinity or affinity within the sixth degree to said Magis-
 trate. The salaries of said Magistrates shall be as follows:
 for the first district, two hundred and twenty-five dollars,
 and the salary of his Constable one hundred and fifty dol-
 lars per annum; the second district, one hundred and fifty-
 dollars, and the salary of his Constable one hundred
 and twenty-five dollars; the third district, one hundred and

Lexington
 County.
 Clv. '02,
 1081; 1909
 XXVI, 107.

D. 1912.

fifty-five dollars, and his Constable one hundred and twenty-five dollars; the fourth district, one hundred and fifty-dollars, and his Constable one hundred and twenty-dollars; the fifth district, one hundred and fifty-five dollars, and his Constable one hundred and twenty-five dollars; the sixth district, one hundred and fifty-five dollars, and his Constable one hundred and twenty-five dollars; the seventh district, two hundred dollars, and his Constable one hundred and thirty-five dollars per annum. The said salaries for Magistrates and their respective Constables shall be in lieu of all fees, costs and charges in criminal cases. The Sheriff may be authorized to serve and execute any process issued by any Magistrate of said County in criminal prosecutions cognizable by the Courts of General Sessions, and shall therefor receive the fees allowed by law for such service. The Constables appointed shall each give bond in the sum of two hundred dollars, with good and sufficient sureties for the faithful and proper discharge of their duties, said bonds to be approved by the County Supervisor. The County Board shall set aside a sufficient sum to pay these salaries quarterly out of the County funds. Each of said Magistrates shall collect and pay over to the County Treasurer of the County, all costs and fees to which he or his Constable, employed or appointed by him, would have been entitled but for the provisions of this Section, together with all fines collected, and shall at least ten days prior to each term of Court of General Sessions for said County, make out and file with the clerk of said County a certified transcript of his criminal docket, which will show the amount of fees, costs and fines imposed and the amount collected thereon. Said Magistrates, except at Lexington and Brookland, in Congaree Township, shall hold their courts on such dates and at such places as is most suitable and convenient. The Magistrates at Lexington and at Brookland, in Congaree Township, shall hold their Courts at these designated places, but on such dates as are to be most convenient.

Marion
County.

Civ. '02. §
32; 1910,
xvi, 608.

Sec. 1329. Marion County—There shall be appointed Marion County Magistrates as follows, who shall receive salaries hereinafter stated as compensation for all costs and fees in criminal cases and on inquests acting as Coroner.

A. D. 1912.

Magistrates at Marion, with an annual salary of two hundred and fifty (\$250) dollars each; one Magistrate at Marion, with an annual salary of two hundred (\$200) dollars and who shall appoint a Constable at two hundred dollars annual salary; one Magistrate at Nichols, with an annual salary of seventy-five (\$75) dollars, and who shall appoint a Constable at seventy-five (\$75) dollars annual salary; two Magistrates south of the courthouse, at an annual salary of seventy-five (\$75) dollars each per annum, and each to appoint a Constable at an annual salary of sixty (\$60) dollars; one Magistrate at or near Pee Dee, with an annual salary of fifty (\$50) dollars. Each of said Magistrates and Constables shall have all the powers and be subject to all the duties now provided by law; that any Magistrate may direct his papers to the Sheriff for service, and in such cases the Sheriff shall serve same and receive therefor the same fees as are allowed by law to Constables for the same service, except papers directed to the Sheriff at Marion, the payment for this special service being otherwise provided for by law.

1330. Marlboro County—Seven Magistrates shall be appointed for the County of Marlboro, each of whom shall have jurisdiction throughout the County. First. Two of said Magistrates shall keep their offices in the town of Bennettsville and each shall receive annually a salary of two hundred and seventy-five dollars. Second. One shall be appointed for Clio, who shall receive annually a salary of one hundred dollars. One shall be appointed for McColl, who shall receive an annual salary of three hundred dollars. One shall be appointed for Brownsville and Blenheim, who shall receive annually a salary of one hundred and fifty dollars. One shall be appointed for Brightsville, who shall receive annually a salary of one hundred and twenty-five dollars. One for Blenheim at a salary of one hundred dollars. Fourth. All of said Magistrates except the two who are required to keep their offices in Bennettsville, may appoint a Constable, who shall annually receive the following salaries, to wit: The Constable appointed for McColl shall receive a salary of one hundred dollars, and the one for Clio shall receive a salary of one hundred and fifty dollars, and the one from Brownsville and Blenheim shall receive a salary of one

Marlboro
County.

Civ. '02, §
1033; 1909,
XXVI, 1140.

A. D. 1912.

hundred and fifty dollars, and the one appointed for Brightsville shall receive one hundred and two dollars, and the one appointed for Smithville shall annually a salary of seventy-five dollars; and the said County shall, *ex officio*, act as Constable for Magistrates at Bennettsville without additional contribution to the salary of nineteen hundred dollars, paid Sheriff: *Provided*, That in lieu of appointing a Constable any Magistrate appointed for said County may, by certificate in writing, filed in the Clerk's office of said County, designate the Sheriff to act as his Constable, in which case the said Sheriff shall receive the salary herein provided to be paid to the Constable of such Magistrates: *And further*, That nothing herein contained shall prevent any Magistrate from appointing, and each of said Magistrates is hereby expressly authorized to appoint said Sheriff to act as Constable in any criminal case or proceeding in which the Constable appointed by him fails or refuses to perform his duty; and in the event such special appointment is made, the Sheriff shall be entitled to receive the salary provided by law for such service, the amount of which shall be deducted from the salary of the Constable thus failing to perform his duty. Sixth. That before a Constable so appointed enters upon the discharge of the duties of his office, he shall file with the Clerk of Court for said County a certificate of his appointment, signed by the Magistrate appointing him, subscribe the oath and give bond as now provided by law for Constables, and said Magistrate shall thereupon give to such Constable, under his seal, a certificate to the effect that said Constable has complied with the provisions herein, and such certificate shall be conclusive evidence of the official character of said Constable. That said Constable shall serve all papers and execute all processes in the criminal cases or proceedings issued by the Magistrates appointing him: *Provided*, That said Constables shall, upon the request of the Sheriff, appear upon each session of the Court of General Sessions as Bailiffs for said Court, and for such service shall receive the sum of two dollars per day for each day on acting in such capacity. Seventh. That the salaries herein provided to be paid to said Magistrates, Constables and

in lieu of all costs and fees in all criminal cases and proceedings, both as against the County and defendant or plaintiffs: *Provided*, That nothing herein contained shall increase the fees of said Sheriff when executing processes issued out of the Court of Common Pleas. Eighth. Said fees shall be payable quarterly by the County Treasurer of said County, upon the warrant of the County Board of Commissioners for the same: *Provided*, That before such warrant is issued, each of said Magistrates shall exhibit to the County Board of Commissioners both his civil and criminal dockets: *Provided, further*, That each of said Magistrates and each of said Constables shall subscribe and deliver to said Board an affidavit that all fines, costs and fees paid to or collected and received by him in criminal cases and proceedings, has been paid over to the County Treasurer of said County, and said Sheriff shall sign and deliver a similar affidavit with said Board as to fines, costs and fees paid to or collected and received by him. Ninth. That the County Board of Commissioners of said County, at the request of the County, shall furnish to each of said Magistrates a criminal and civil docket.

1331. Newberry County—In Newberry County Magistrates shall be appointed: one in the town of Newberry, whose salary shall be three hundred and fifty dollars per annum, and whose Constable shall receive one hundred (\$100) dollars per annum; one in the town of Liberty, whose salary shall be two hundred (\$200) dollars per annum, and whose Constable shall receive the same salary; one in the town of Little Mountain, whose salary shall be sixty (\$60) dollars per annum, and whose Constable shall receive the same salary; one in each Townships Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, who shall receive an annual salary of fifty dollars each, and whose Constable shall receive the same salary; one in Township No. 4, whose salary shall be one hundred (\$100) dollars, and whose Constable shall receive the same salary; one in Township No. 7, who shall receive a salary of sixty (\$60) dollars per annum, and whose Constable shall receive the same salary; one in Township No. 11, who shall receive a salary of sixty (\$60) dollars per annum, and whose Constable shall receive the same salary. These salaries shall be in lieu of all fees in criminal cases

Newberry
County.
Civ. '02, §
1034: 1910,
XXVI, 604.

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house, and whose salary shall be five hundred and seven-
dollars per annum, with one Constable, whose salary
be five hundred and seventy-five dollars per annum.
t No. 2 shall be comprised of the Townships of Branch-
and New Hope, with one Magistrate and one Constable,
salaries shall be one hundred and seventy-five dollars
er annum. The said Magistrate shall have at least
ice days at the town of Branchville, each week. Dis-
o. 3 shall be comprised of the Townships of Poplar,
ence, Goodbyes and Vance, with one Magistrate and
onstable, whose salaries shall be one hundred and
y-five dollars each per annum. The said Magistrate
ave at least one office day in each week in the town
ree and two days in each month in the town of Vance.
t No. 4 shall be comprised of the Townships of
and Union, with one Magistrate and one Constable,
salaries shall be one hundred and twenty-five dollars
er annum. District No. 5 shall be comprised of the
hip of Willow, and all that part of Goodland not in
t No. 6, lying east of a straight line drawn from
outh of Goodland Swamp, on the South Edisto River,
es Bridge, on the North Edisto River, with one Magis-
nd one Constable, whose salary shall be one hundred
twenty-five dollars each per annum. District No. 6
be comprised of the territory situated to the west of a
rawn as set forth in District No. 5, with one Magis-
nd one Constable, whose salaries shall be one hundred
s each per annum. District No. 7 shall comprise the
hip of Elizabeth, with one Magistrate and one Con-
whose salaries shall be one hundred dollars each per
a. District No. 8 shall be comprised of the Townships
bron and Liberty, with one Magistrate and one Con-
whose salaries shall be one hundred dollars each per
n. District No. 9 shall compose the territory bounded
ows: Beginning at the point on the Orangeburg and
eston Road, just north of residence of Willie H. Dukes,
e Township, where the Four Holes Bridge Road
into said road, thence in a straight line to point where
sville Road intersects the New Hope Township line;
e along the line between Middle and New Hope Town-
and between Branchville and Cow Castle Town-

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ships to the Dorchester County line; thence along the line of Dorchester County to run of Four Holes Swamp; thence up the run of Four Holes Swamp to where Five Chop Creek crosses said swamp; thence eastward along public road running from the said crossing to starting point on Orangeburg Charleston Road, with one Magistrate and one Constable, whose salaries shall be one hundred and fifty dollars per annum. Each of said Magistrates shall be a resident of the District for which he is appointed, and shall reside therein during his term of office. In all criminal cases triable by said Magistrates, they shall have exclusive jurisdiction within the limits of their magisterial district. In prosecutions cognizable by the Court of General Sessions and in civil cases within their jurisdiction, said Magistrates shall each have jurisdiction throughout the limits of the County. But prosecution and civil action may be removed from one Magistrate to another for the same causes in the same manner as is provided by law. In cases of sickness, absence or temporary disability of any Magistrate, the next Magistrate is authorized to hear and determine any case that may arise within the jurisdiction of the Magistrate absent, sick or disabled as aforesaid. All constables shall, in addition to their respective salaries, shall receive ten cents per mile for necessary travel for transporting prisoners to the chaingang or to the county jail. The Magistrate of District No. 1 may employ additional constables and services at a cost not exceeding fifty dollars per annum to be paid to the party or parties rendering such services. The Board of County Commissioners upon the claims therefor being approved by the said Magistrate.

Sec. 1334. Pickens County—There shall be appointed one Magistrate for each Township in Pickens County, except in Central Township, where there shall be three, of whom to reside at Catechee and one at Calhoun. The Magistrates at Catechee and Calhoun to receive an annual salary of forty dollars. The Magistrate appointed for Easley shall receive a salary of two hundred and twenty-five dollars, and the Magistrates appointed for Liberty, Central, except the Magistrates at Catechee and Calhoun and Pickens Court House, shall receive a salary each of one hundred dollars; the Magistrate for Dade

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ship shall receive a salary of fifty dollars, and all in the County shall receive forty dollars. The Magistrate appointed at Pickens and Liberty shall each receive a salary of two hundred dollars: *Provided*, The Magistrate may be appointed to reside at Calhoun shall be appointed on the recommendation of the Board of Trustees of Clemson College, and shall also have jurisdiction to enforce the ordinances of said Board, and to punish offenses committed at the same; but said Magistrate resident at Calhoun shall have no jurisdiction in the County of Oconee, and the Magistrate now resident at Clemson College shall have no jurisdiction in Pickens County: *And provided, further*, all fees collected by said Magistrate at Calhoun shall be turned over to the County Treasurer of Pickens County.

1335. Richland County—There shall be thirteen Magistrates in Richland County, who shall open Court on the Tuesday of each week, and as many times as may be necessary, located as hereinafter provided, who shall receive compensation for their services in criminal cases, and costs when acting as Coroner, in lieu of all costs and annual salaries, payable monthly, as follows: One at Columbia, to receive a salary of twelve hundred dollars; one at Waverly, to receive a salary of four hundred and fifty dollars; one at Eastover, to receive a salary of two hundred and forty dollars; one at Gadsden, to receive a salary of two hundred and forty dollars; one in Upper Town, to receive a salary of four hundred and eighty dollars; one at Hopkins, to receive a salary of two hundred and forty dollars; one at Davis', to receive a salary of two hundred and forty dollars; one at Killian's, to receive a salary of two hundred and forty dollars; one at Garner's, to receive a salary of two hundred and forty dollars; one at Olympia, to receive a salary of three hundred dollars; one at Fairmount, to receive a salary of two hundred and forty dollars; one at Lykes, to receive a salary of two hundred and forty dollars; one at Wateree, to receive a salary of two hundred and forty dollars. Each of said Magistrates is authorized to appoint a person to act as Constable in serving and executing processes issued by him, who shall give bond and take the oath required by law. The Constables so appointed shall receive as compensation for their services in criminal

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County.

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cases, in lieu of all costs and fees therefor, annual salaries as follows, payable monthly: The Constable at Columbia, four hundred and twenty dollars; the Constable at Columbia Ground, two hundred and forty dollars; the Constable at Hopkins, two hundred and forty dollars; the Constable at Davis', two hundred and forty dollars; the Constable at Killian's, two hundred and forty dollars; the Constable at Garner's, two hundred and forty dollars; the Constable at Gadsden, two hundred and forty dollars; the Constable at Olympia, three hundred dollars; the Constable at Mount, two hundred and forty dollars; the Constable at Lykes, two hundred and forty dollars; and the Constable at Waverly, three hundred dollars: *Provided*, That said Constables (besides their salaries) shall be entitled to mileage of five cents per mile, each way, for carrying persons under commitment.

Sec. 1336. Saluda County—Six magistrates shall be appointed in Saluda County, each of whom shall have jurisdiction throughout the County. One of the said Magistrates shall reside in the town of Saluda, and have his office in said town, and he shall receive an annual salary of one hundred dollars. Each of the other said Magistrates shall receive an annual salary of seventy-five dollars. The Sheriff of Saluda County or his deputy shall act as Constable for the Magistrate residing in the town of Saluda. Each of the other Magistrates shall appoint a Constable, and each of said Constables shall receive an annual salary of seventy-five dollars. The salaries herein provided for shall be paid quarterly by the County Treasurer upon the warrants of the County Board of Commissioners.

Sec. 1337. Spartanburg County—There shall be two Magistrates appointed in and for Spartanburg County, two of whom shall reside and have their offices in the city of Spartanburg. The said Magistrates shall be paid their services annual salaries, payable quarterly, on the first day of January, April, July, and October, as follows: The Magistrates in the city of Spartanburg shall each receive four hundred dollars; the Magistrate at Duncans, two hundred dollars; the Magistrate at Woodruff shall receive one hundred and seventy-five dollars; the Magistrate at Dale, one hundred and fifty dollars; the Magistrate

bello, one hundred dollars; the Magistrate at Pacolet two hundred dollars; the Magistrate at Arlington, one hundred and fifty dollars; the Magistrate at Cowpens and Union, two hundred dollars; the Magistrate at Enoree, one hundred dollars; each of the other Magistrates in the County shall receive seventy dollars. Each of said Magistrates shall make and file with the County Board of Commissioners, at the end of each quarter, an itemized, verified account of all costs, fees, fines, penalties and forfeitures collected by him in criminal cases during the quarter, and make oath that the same have been paid over to the County Treasurer, and he shall file at the same time, with said Board, a separate itemized, verified account of all moneys received by him or due to him as fees or costs, or in any other manner, as pay for his services as Magistrate during said quarter, and the same time he shall exhibit civil and criminal dockets to said Board for inspection and examination. No warrant shall be issued by said Board for the salary of any Magistrate who fails to comply with the foregoing requirements. They shall not be allowed any compensation for holding inquests, except upon proof that the Coroner failed, after twelve hours' notice, to find the body of the dead body, to appear and hold such inquest; the expense of such notice to be paid by the Coroner. Each of said Magistrates may appoint a regular Constable, whose term of office shall be coterminal with that of the Magistrate appointing him, unless sooner removed by the Magistrate. Each Constable shall be entitled to receive and receive the costs and fees provided by law for Constables: *Provided*, The salaries above mentioned shall be payable monthly, at the option of the officer from whom same is due.

Each Constable shall make and file with the County Board of Commissioners, at the same time that the Magistrates are required to file their accounts, an itemized, verified account against the County for his services according to the provisions in said Section, and he shall make oath that he has turned over to the Magistrate under whom he is acting all costs, fees, fines, penalties and forfeitures collected by him in criminal cases during the quarter, and he shall file at the same time with said Board an itemized, verified

Costs of Constables.

ville; the Third District shall comprise the Townships of Sumter and Concord; the Fourth District shall comprise the Townships of Privateer and Manchester; the Fifth District shall comprise the Townships of Middleton and Statesburg; the sixth district shall comprise so much of the Townships of Providence and Rafting Creek as lies to the north of the Rafting Creek from the Stateburg line to the northern edge of Northwestern Railroad bridge over said creek; a direct line thence to northern intersection of public road leading from Gaillard's Cross Roads, in Sumter County, to Smithville, in Lee County, with private road leading to home now owned and occupied by Matterson, then on northern edge of said road to Smithville, to Lee County line; the Seventh District shall comprise so much of the Townships of Rafting Creek and Providence lying south of line last above named. The salaries of the Magistrates of the First, Second and Seventh Districts shall be one hundred and twenty-five (\$125) dollars per annum; the salary of the Magistrate of the Third District shall be six hundred and twenty-five (\$625) dollars per annum; the salary of the Magistrate of the Fifth District shall be four hundred (\$400) dollars per annum; the salary of the Magistrate of the Fourth District shall be one hundred and fifty (\$150) dollars per annum, and the salary of the Magistrate of the sixth district shall be three hundred and fifty (\$350) dollars per annum: *Provided*, That the salaries herein provided for each Magistrate shall be in lieu of fees and costs in criminal cases and for holding courts. The salaries of the Constables of the First, Second and Seventh Districts shall be one hundred (\$100) dollars per annum; the salary of the Constable of the Third District shall be two hundred and seventy-five (\$275) dollars per annum; the salary of the Constable of the Fourth District shall be one hundred and twenty-five (\$125) dollars per annum; of the Fifth District, two hundred (\$200) dollars per annum; of the Sixth District, two hundred (\$200) dollars per annum. Each Magistrate shall be a resident of the District in which he is appointed and shall reside herein during the term of office. In criminal cases, triable by them, said Magistrates shall have exclusive jurisdiction within the limits of their respective districts. The Magistrate of the

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ve concurrent jurisdiction with the Magistrates of River Township. The sixth district shall embrace Township; the seventh district shall embrace Fort Township; the eighth district shall embrace Ebenezer Township, outside of the corporate limits of the city of Rock Hill; the ninth district shall embrace Catawba Township and that part of Ebenezer Township lying within the corporate limits of the city of Rock Hill. There shall be one Magistrate for each of said districts, each of whom shall have civil jurisdiction over the entire County, in all cases cognizable by the Court of General Sessions, and said Magistrates shall have jurisdiction over the entire County, and they are hereby required to arrest and detain witnesses or defendants in any part of the County in cases triable by the Court of General Sessions. Each Magistrate shall appoint a Constable or Constables, in conjunction with the Clerk of Court of Common Pleas and General Sessions for York County a certificate of the appointment of his Constable, and each of said Constables shall give with said Clerk a bond, in the penal sum of two hundred dollars, in the form now required by law for Constables. The said Magistrates and Constables shall receive compensation from said County as compensation for their services, and in lieu of all fees and costs in criminal cases, as follows: to wit: In the first district, the Magistrate and Constable shall each receive two hundred dollars per annum; in the second district, the Magistrate and Constable shall each receive one hundred and seventy-five dollars per annum; in the third, fifth and sixth districts, the Magistrates and their Constables shall each receive one hundred and seventy-five dollars per annum; in the fourth district the Magistrate and his Constable shall each receive one hundred and fifty dollars per annum; in the seventh district the Magistrate and his Constable shall each receive one hundred and twenty-five dollars per annum; in the eighth district the Magistrate and his Constable shall each receive two hundred dollars; in the ninth district the Magistrate and his Constable shall each receive five hundred dollars. It shall be the especial duty of all said Magistrates and Constables to enforce the laws against the illicit sale of whiskey and to enforce the game laws of this State.

be the duty of, and each of said Magistrates and Constables are hereby instructed and hereby required to attend public meetings, when requested by those in charge of the same, and especially all public school exercises at the same places in their respective districts, when requested by the teacher or trustees, for the purpose of preserving the peace and arresting all disorderly persons; and upon written request to the County Supervisor that the Magistrate and his Constable are neglecting to attend to this duty in their districts, the Supervisor is hereby authorized to appoint and designate some other Magistrate to perform this duty, and to deduct the salaries of the Magistrate and Constable so appointed out of the salaries of the Magistrate and Constable neglecting or refusing to perform the same duty. Each Magistrate and Constable shall make out and render accounts for said salaries, and said Magistrates and Constables are hereby required to certify before the County Commissioner that they have paid over to their Constables the amount of their salaries herein allowed to their Constables. Whenever it is impracticable for the Coroner to attend inquests, the said Magistrate shall conduct the same in their respective districts without any cost or expense to the County. Should any Magistrate refuse to hold such inquests in his district, the County Supervisor may designate another Magistrate to hold the same and deduct ten dollars from the salary of the Magistrate refusing to do so. Only a physician shall be summoned and receive pay for conducting a *post mortem*, unless the exigencies of the case require the attendance of another physician. The location, jurisdiction and compensation of Magistrates and Constables in Counties not otherwise provided for shall remain as now provided by law. It shall be the duty of each and every Magistrate in their respective Counties in their State to make a full and complete itemized report monthly to the County Auditor and County Treasurer, in their said respective Counties, of all fines, licenses, and any other moneys collected, and pay the same to the County Treasurer in said respective Counties before a warrant is issued by the Board of County Commissioners for the salary of said Magistrate. The Constable of York County, in addition to the salaries above provided, shall receive two and one-half (2½) cents per mile actually traveled by said Constable and each prisoner

ARTICLE IX.

CONSTABLES.

How chosen or appointed; term; residence.	Sec. 1349. Executions; when and how returned.
How to qualify, bond; etc.; deputations.	1350. Liability for neglect to en- force or return executions; breach of bond.
Oaths of office.	1351. Oppression in office, etc., li- ability in civil action; pro- viso.
May act throughout County; exception.	1352. To attend Circuit Courts when required.
Execution and return of pro- cesses.	
Service of process; how made.	

can be no regularly commissioned Constable in the State, under
Art. IV, the Legislature not having directed how he shall be elected.—
T. Kirby, 17 S. C., 1.

Section 1343. Constables shall be chosen in each County How chosen
qualified electors thereof, in such manner as the Gen- or appointed;
assembly shall direct, for the term of two years. They term; resi-
dence.
reside in the County, City or Township for which they Civ. '02, §
1046.
elected.

A Magistrate of the State may appoint one person to
perform the duties of Constable within the jurisdiction of
the Magistrate, and, the Constable so appointed shall
receive the compensation provided by law. He shall hold
office for the term of two years, subject to removal by
the Magistrate appointing him.

Section 1344. When any person shall be elected or appointed How to qual-
office of Constable, he shall repair to the Clerk's office ify.
County, and, together with the evidence of his elec- Civ. '02, §
1047.
tion or appointment, he shall lodge his bond, in the form
prescribed by law, in the penalty of five hundred dollars,
with good sureties, not less than two, nor more than five, to
be approved in writing by the Clerk; and, upon taking the
oaths herein prescribed, such person shall be entitled to a
certificate from the Clerk that he has filed his bond and
taken the requisite oaths, and shall thenceforth be regarded
as a regularly qualified Constable; nor shall any person not
so qualified exercise the powers of a Constable: *Provided*,
nothing herein contained shall prevent a presiding
Justice, or a Magistrate, or a Coroner, from appointing a
person able to act by virtue of such appointment only on a

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erty sold by the Constable is still subject to the lien of a senior judgment creditor of the Court of Common Pleas.—*Carrier v. Thompson*, 11 S. C., 79; *Montgomery*, 1 Hill, 277; *Robinson v. Caspar*, 1 Hill, 286; *Lemmond v. S. Stroh*, 313. As to recovery of the excess, see *Treasurers v. Temperance*, 48; *Etters v. Wilson*, 12 Rich, 145.

Every Constable appointed by a Magistrate shall be bound to execute, when required, every lawful order, judgment and determination of said Magistrate or his Court.

Must execute orders, etc., of Magistrate appointing him.

v. Greenwood, 1 Mill, 420; *Foster v. Gault*, 2 McM., 335.

1348. The service by a Constable of all process in the nature of a notice for personal appearance shall be by delivering to the party a copy of the same, or by leaving the same at his most notorious place of residence.

Service of process; how made.

Civ. '02, § 1051.

being at residence sufficient.—*Henneman v. Thompson*, 8 S. C., 117. If not proved by affidavit.—*State v. Cohen*, 13 S. C., 198. Or by acceptance.—*Benson v. Carrier*, 28 S. C., 119; 5 S. E., 272; *Bradley v. Bell*, 34 S. C., 107; 12 S. E., 1071.

1349. It shall be the duty of every Constable with whom an execution is lodged for collection to proceed forthwith to execute the same, according to its exigency, unless prevented by the party in whose favor the same was issued; and every execution shall be returned to the Magistrate by whom it was issued within sixty days from the date, the Constable making such return shall set forth the reasons for his failure.

Execution; when and how returned.

Civ. '02, § 1052.

in executing.—*Hunter v. McElhaney*, 2 Brev., 103; *Brown v. Gault*, 457; *Foster v. Gault*, 2 McM., 335; *Taylor v. McKeown*, 12 S. C., 151; *Bragg v. Thompson*, 19 S. C., 572; *Goodglon v. Gilreath*, 32 S. C., 207.

1350. When any Constable fails to do his duty in enforcing or return of an execution, the party in whose favor the same may have been issued may apply to the Magistrate for a rule against such defaulting Constable, requiring him to show cause, after the expiration of two weeks from the service of such rule, why the execution has not been enforced or returned, and on his failing to show sufficient the said Magistrate may order same to be absolute, and the Constable shall be liable for the interest and costs, and if he be unable to pay the same his liability shall be construed a breach of his official bond, and the same shall be recoverable in an action thereon against his sureties.

Liability for neglect to enforce or return executions; breach of bond.

Civ. '02, § 1053.

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on 1353. The County officers of the State shall receive the compensation fixed in this Article, payable annually, except in the Counties for which different periods of time are provided, such compensation being in proportion to the population and necessary services required.

Compensation of County officers.

1907, XXV, 1092.

1354. Abbeville County—Auditor, twelve hundred dollars; Sheriff, eleven hundred dollars; Deputy Sheriff, five hundred dollars; Clerk of Court, three hundred dollars; Supervisor, eleven hundred dollars; Coroner, one hundred and fifty dollars; Superintendent of Education, seven hundred dollars; County Commissioners, one hundred dollars each; Clerk of the County Board of Commissioners, three hundred dollars.

Abbeville County.

1355. Aiken County—Auditor, sixteen hundred dollars; Sheriff, two thousand dollars; Clerk of Court, five hundred dollars; Chief Commissioner, one thousand dollars; Coroner, three hundred dollars; Superintendent of Education, eight hundred dollars; County Commissioners, five hundred dollars per day for not exceeding one hundred days; Clerk of the County Board of Commissioners, six hundred dollars.

Aiken County.

1356. Anderson County—Auditor, eighteen hundred dollars; Sheriff, eighteen hundred dollars; Clerk of Court, five hundred dollars; Supervisor, twelve hundred dollars; Coroner, three hundred dollars; Superintendent of Education, nine hundred dollars; County Commissioners, one hundred and twenty dollars each; Clerk of the County Board of Commissioners, four hundred dollars, payable annually.

Anderson County.

1357. Bamberg County—Auditor, one thousand and five hundred dollars; Sheriff, nine hundred dollars, and for keep-
ing jail and jailor, one hundred and fifty dollars: *Provided*, that the said amounts shall be in lieu of all work both civil and criminal for cases for the County. Clerk of the Court, five hundred dollars; Supervisor, ten hundred dollars; Coroner, one hundred dollars; Superintendent of Education, five hundred dollars; County Commissioners, one hundred and fifty dollars each; Clerk of the County Board of Commissioners, one hundred and fifty dollars.

Bamberg County.

1358. Barnwell County—Auditor, thirteen hundred dollars; Sheriff, fifteen hundred dollars; Clerk of Court,

Barnwell County.

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1361. Calhoun County—Auditor, one thousand and dollars; all fees of Auditor and Treasurer now ^{Calhoun} _{County.} by law shall be turned over to the County for its purposes; Sheriff, one thousand dollars, and fees allowed by law; Clerk of Court, two hundred dollars, and all fees allowed by law; Supervisor, eight hundred dollars; Judge of Probate, four hundred dollars, and all costs which he is entitled in law to charge and receive for his services; Coroner, one hundred dollars, in addition to all fees; Superintendent of Education, six hundred dollars, payable quarterly; County Commissioners, one hundred dollars; Clerk of the County Board of Commissioners, two hundred dollars.

1362. Charleston County—Auditor, thirty-five hundred and sixty dollars; twenty-one hundred and thirty-three dollars and thirty-three cents to be paid by the State, and seven hundred and twenty-six dollars and sixty-seven cents by the County; for clerical services, in addition to salary or other allowances now provided by law, four hundred dollars; Treasurer, forty-two hundred; twenty-one hundred and thirty-three dollars and thirty-three cents to be paid by the State, twenty hundred and sixty-six dollars and sixty-seven cents to be paid by the County; for clerical services, in addition to salary or other allowance now provided by law, two hundred dollars; Sheriff, forty hundred dollars; Clerk of Court, twenty-four hundred dollars; Supervisor, eighteen hundred dollars; Coroner, twenty hundred dollars; Deputy Coroner, eight hundred dollars; Superintendent of Education, twelve hundred dollars; County Commissioners, twelve hundred dollars; Clerk of the County Board of Commissioners, two hundred dollars.

1363. Cherokee County—Auditor, eleven hundred and fifty dollars; Sheriff, fifteen hundred dollars, and for attending all criminal processes issued by the Magistrates residing at Gaffney he shall receive the fees allowed by law to constables; Clerk of Court, two hundred and fifty dollars; Supervisor, nine hundred dollars; Coroner, two hundred dollars; Superintendent of Education, six hundred dollars; Township Commissioners, two dollars per day for not exceeding ten days each year, and when acting as Board of Equalization five cents per mile each way for the nearest

A. D. 1922.

s; Clerk of the County Board of Commissioners, two hundred dollars; Master, two hundred dollars.

1368. Darlington County—Auditor, thirteen hundred dollars; Sheriff, twenty hundred dollars; Clerk of Court, four hundred and twenty-five dollars; Supervisor, three hundred dollars; Coroner, two hundred and twenty-five dollars; Superintendent of Education, ten hundred dollars; County Commissioners, three dollars per day, not to exceed five days; Clerk of the County Board of Commissioners, two hundred dollars.

Darlington
County.

1369. Dillon County—Auditor, ten hundred and fifty dollars; Sheriff, fifteen hundred dollars, payable monthly; Clerk of Court, ten hundred dollars, payable monthly; Supervisor, fourteen hundred dollars, and he shall be allowed to appoint a clerk at an annual salary of five hundred dollars; Judge of Probate, three hundred dollars, payable monthly; Coroner, one hundred dollars, payable monthly; Superintendent of Education, eight hundred dollars, payable monthly; County Commissioners, fifty dollars per annum, payable quarterly.

Dillon County.

1370. Dorchester County—Auditor, ten hundred and eighty dollars, and also seventy-five dollars for expenses, to be paid by County; the Treasurer shall be allowed fifty-five dollars for expenses, to be paid by County; Sheriff, ten hundred dollars, and he shall also be paid his actual necessary expenses in the transportation of prisoners and in the service of the process of the Court of General Sessions; Clerk of Court, three hundred dollars; Supervisor, seven hundred and fifty dollars, and the said County Supervisor shall give his entire time to the supervision of the roads and bridges of said County and to the other duties of the office; Judge of Probate, two hundred and fifty dollars; Coroner, one hundred and fifty dollars; Superintendent of Education, six hundred dollars, and one hundred dollars for expenses; County Commissioners, three hundred dollars for each Commissioner; Clerk of the County Board of Commissioners, one hundred and fifty dollars; Master, one hundred and fifty dollars.

Dorchester
County.

1371. Edgefield County—Auditor, twelve hundred dollars; Sheriff, twelve hundred dollars; Clerk of Court, five hundred dollars; Supervisor, nine hundred dollars;

Edgefield
County.

OF SOUTH CAROLINA.

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ion, eight hundred dollars; County Commissioners, exceeding fifty days at three dollars per day, and no more; Clerk of the County Board of Commissioners, one hundred and fifty dollars.

1376. Greenville County—Auditor, eighteen hundred dollars; Sheriff, twenty-two hundred dollars; Clerk of Court, sixteen hundred dollars; Supervisor, thirteen hundred and twenty dollars; Coroner, three hundred and fifty dollars; Superintendent of Education, seven hundred dollars; County Commissioners, two dollars per day for not exceeding seventy days, and mileage at five cents per mile for necessary travel, not to exceed one hundred dollars for one year; Clerk of the County Board of Commissioners, one hundred dollars; Register of Mesne Conveyance, twenty dollars.

1377. Hampton County—Auditor, ten hundred and fifty dollars; Sheriff, ten hundred dollars; Clerk of Court, one hundred dollars; Supervisor, nine hundred dollars; Coroner, one hundred and fifty dollars; Superintendent of Education, seven hundred dollars; County Commissioners, one hundred dollars each, without mileage; Clerk of the County Board of Commissioners, one hundred and fifty dollars.

1378. Horry County—Auditor, twelve hundred dollars; Sheriff, ten hundred dollars; Clerk of Court, twelve hundred dollars, with three hundred dollars compensation for assistant, to be expended by him as he deems proper, Deputy Clerk of Court, five hundred dollars; Supervisor, ten hundred dollars, and he shall give his entire time and attention to the business of the office and the duties required of him; Judge of Probate, four hundred dollars; Coroner, one hundred and fifty dollars; Superintendent of Education, six hundred dollars; County Commissioners, two dollars per day each for the time actually employed, not to exceed thirty days during any one year; Clerk of the County Board of Commissioners, two hundred dollars.

All costs, fees, or fines collected by the various County Officers shall be turned into the County Treasury and belong to the general County funds, except the Sheriff, who shall receive one-half of all fees collected by him.

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annually; Clerk of the County Board of Commissioners, three hundred dollars.

1383. Lexington County—Auditor, twelve hundred dollars; Sheriff, ten hundred dollars; Clerk of Court, three hundred and fifty dollars; Supervisor, nine hundred dollars; Coroner, one hundred and fifty dollars; Superintendent of Education, six hundred dollars, and one hundred dollars for traveling expenses; County Commissioners, three dollars each per day of actual service, not to exceed twenty days in any one year; Clerk of the County Board of Commissioners, one hundred and fifty dollars.

Lexington
County.

1384. Marion County—Auditor, thirteen hundred dollars; Sheriff, eighteen hundred dollars, and two hundred dollars as Constable for Magistrate at Marion: *Provided*, Sheriff shall serve the warrants of Magistrates in the county when required by them so to do; Clerk of Court, five hundred dollars; Supervisor, ten hundred dollars; Coroner, one hundred and seventy-five dollars; Superintendent of Education, eight hundred dollars; County Commissioners, three dollars per diem, and mileage at five cents per mile, the number of days not to exceed fifty days; Clerk of the County Board of Commissioners, three hundred dollars.

Marion
County.

1385. Marlboro County—Auditor, eleven hundred dollars; Sheriff, nineteen hundred dollars: *Provided*, He shall act as Constable for the two Magistrates sitting in Bennettsville, without additional compensation; Clerk of Court, seven hundred dollars; Supervisor, twelve hundred dollars: *Provided*, The Supervisor spend at least five days in each week during his term in personal inspection of the public highways and bridges; Coroner, two hundred dollars; Superintendent of Education, seven hundred dollars; County Commissioners, three dollars per day for each day actually engaged, not to exceed fifty days, and mileage at five cents per mile; Clerk of the County Board of Commissioners, to be appointed by Supervisor upon recommendation of the members of the Board of County Commissioners, said Clerk to receive five hundred dollars per annum. The County officials who are paid salaries, shall receive their salaries monthly; this shall include

Marlboro
County.

A. D. 1911

year, and shall make an itemized report to the Board
 day for which pay is claimed; Clerk of the County
 of Commissioners, one hundred dollars.

1390. Richland County—Auditor, twenty hundred Richland
County.
 ; County Treasurer, for clerical services in addition
 y or other allowance provided by law, three hundred
 ; Sheriff, twenty-four hundred dollars; Clerk of
 twelve hundred dollars; Supervisor, fifteen hundred
 ; Judge of Probate, three hundred dollars; Coroner,
 hundred and twenty dollars; Superintendent of Edu-
 twelve hundred dollars; County Commissioners,
 dollars per day, not exceeding one hundred days in any
 nd five cents per mile, for attendance at Board meet-
 Clerk of the County Board of Commissioners, ten hun-
 dollars. Four members of the Board of Police Com-
 mers, as provided for by Act of 1909, twenty-five dol-
 ch.

1391. Saluda County—Auditor, ten hundred and Saluda
County.
 dollars; Sheriff, eleven hundred dollars: *Provided*,
 heriff shall act as Constable for the Magistrate resid-
 the town of Saluda, in criminal cases, without other
 nsation; Clerk of Court, two hundred and fifty dol-
 Supervisor, seven hundred and fifty dollars; Coroner,
 undred dollars; Superintendent of Education, five
 ed and fifty dollars; County Commissioners, three
 s per day, without mileage, not to exceed thirty-four
 Clerk of the County Board of Commissioners, one
 ed and thirty dollars.

1392. Spartanburg County—Auditor, twenty-one Spartanbur
County.
 ed dollars; Sheriff, twenty-five hundred dollars;
 of Court, eighteen hundred dollars; Supervisor,
 e hundred dollars, payable monthly; Coroner, four
 red dollars, payable monthly; Superintendent of Edu-
 , twelve hundred dollars, payable monthly; Township
 mmissioners, three dollars per day for not exceeding
 ty-five days in each year, payable quarterly; Clerk of
 County Board of Commissioners, seven hundred and
 dollars, payable monthly.

1393. Sumter County—Auditor, sixteen hundred Sumter
County.
 rs; Sheriff, eighteen hundred dollars; Clerk of Court,
 hundred dollars; Supervisor, fifteen hundred dollars;

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County, payable in the same manner and at the same rate as the salary of the County Auditor.

1398. The salaries of the County Auditors and County Treasurers of the various Counties of this State shall be payable monthly, two-thirds thereof to be paid by the State and one-third by the County, except in the County of Charleston, where their salaries shall be paid as provided in Section 1361. How paid.

1399. In addition to the salaries herein above provided for, the Sheriffs of the various Counties of the State shall receive thirty cents per day for dieting each prisoner in his custody and actual necessary expenses for himself and prisoners and lunatics when called beyond the County: *Provided*, That in the Counties of Clarendon, Cherry, Anderson, Sumter, Williamsburg, Lexington, Florence, Union, Darlington, Kershaw, Calhoun, Lee and Laurens he shall be paid the sum of forty cents per day each for keeping and dieting prisoners: *Provided, further*, That in the County of Dillon he shall be allowed twenty-five cents for keeping and dieting prisoners. Sheriff's allowance for dieting prisoners.

1400. The salaries herein above provided for shall be paid in lieu of all fees, costs and charges which may be chargeable against the County, except where otherwise expressly provided by law.

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support of the poor in said County: *And provided, further,* That no unusual or cruel punishment shall ever be allowed in any Poor House in this State.

Sec. 1402. Legal settlements may be acquired in any county, so as to oblige such County to relieve and support the persons acquiring the same, in case they are poor and in need of relief, in the manner following, namely:

1st. A married woman shall follow and have the settlement of her husband, if he has any within the State; and otherwise, her own at the time of marriage, if she then had any, shall not be lost or suspended by the marriage.

2d. Legitimate children shall follow and have the settlement of their father, if he has any within the State, until they gain a settlement of their own; but if he has none, they shall, in like manner, follow and have the settlement of their mother, if she has any.

3d. Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she then has any within the State; but neither legitimate nor illegitimate children shall gain a settlement by birth in the County where they may be born, if neither of their parents then has a settlement therein.

4th. Any person of the age of twenty-one years, being a citizen of this or any other of the United States, who has lived for three successive years in any County, and who has during that time maintained himself and family, shall be held to have acquired a legal settlement therein.

County not bound to support child who has left it.—*Lynah v. Commissioners*, 2 McC., 170.

Sec. 1403. The Overseers of the Poor, in their respective cities or Counties, shall provide for the immediate comfort and relief of all persons residing or found therein, having lawful settlements in other places, when they fall into distress and stand in need of immediate relief, and until they are removed to the city or County of their lawful settlement; the expenses whereof, incurred within three months next before notice is given to the place to be charged, as also of their removal, or burial, in case of their death, may be recovered by the city or County incurring the same, against the city or County liable therefor, in an action at

How legal settlements may be acquired.

Civ. '02, § 1057.

1. Of married women.

2. Of legitimate children.

3. Of illegitimate children.

4. Of citizens generally.

Overseers to care for persons of other places; expenses; how recovered.

Civ. '02, § 1058.

A. D. 1912.

and Richland Counties shall, when they levy a general tax for their Counties, except from the payment of the said cities of Charleston and Columbia: *Provided*, the aforesaid authorities of the cities of Charleston and Columbia shall have made adequate provision for the support of their poor.

1408. The Overseers of the Poor of each city and County in this State shall, on or before the first day of January of each year, make and return to the Secretary of State a statement of the paupers in each city or County as follows: *Overseers to make annual return to Secretary of State; nature of the return; the Secretary to furnish blanks.* *Civ. '02, § 1068.* Were during the year ending the thirtieth day of September preceding, which return shall contain true and correct answers to the following inquiries: What number of persons have been relieved or supported by your County (or City) during the year ending September 30th? Of those, how many have a legal settlement in your County or city? How many are foreign born? How many colored? How many white? Have you a Poor House? What number of acres of land is attached to your Poor House? What is the present estimated value of your Poor House establishment? Real Estate? Personal? What number of persons have been supported in your Poor House during the whole or part of the year? What is the average number supported in the Poor House? What is the average weekly cost of supporting each pauper in the Poor House? What number of persons have been inmates of your Poor House who are unable to perform any kind or amount of labor? What is the estimated value of all the labor performed by the inmates in your Poor House? What was the kind and quantity of crops raised on the Poor Farms? The value of that raised? The estimated value of that retained for use on the farms? How many persons, including the families, have been supported out of the Poor House during the whole or part of the year? What is the average weekly cost of supporting each pauper out of the Poor House? How many persons aided out of the Poor House? How many have been relieved who were insane? How many who were idiots? What number of your poor, supported at the public charge, have been made dependent by intemperance in themselves? What number by intemperance in those who ought to have supported them? What is the total net cost of sup-

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porting or relieving the poor in your County or city during the year, including interest on your Poor House establishment? How many are supported in your Poor House at the present time? How many are supported out of the Poor House at the present time? How many are assisted out of the Poor House at the present time? They shall, at the same time, make correct returns of all children in such County or city, under fourteen years of age, who are supported at the public charge, specifying therein the name, age, sex and color of each. And the Secretary of State shall furnish County Commissioners of every County, and the Overseers of the Poor of each city in the State, with blank forms of returns, which shall contain, in substance, the foregoing interrogatories.

Secretary of
State to
transmit ab-
stract of re-
turn to Gen-
eral Assem-
bly.

Civ. '02. §
1064.

Sec. 1408. The Secretary of State shall, on or before the first day of December of each year, make out an abstract of the returns made to him, together with such explanatory remarks as he deems proper, and, through the Governor of the State, transmit the same to the Legislature.

See State Hospital for Insane, *post*, for provisions as to pauper lunatics.

The provisions of Chapter XXII, Sections 920-938, of the Revised Statutes of 1893; and Sections 900-910 of the General Statutes of 1882 in reference to the estate of Dr. John De Lallowe, the Downer Fund and the Beresford Fund are omitted in this Code, because they are special, and not general, in their nature.

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CHAPTER XXII.

Pensions.

Pensions provided for certain soldiers and sailors.
 Who are entitled to them.
 Pensions for widows.
 Blind pensioners.
 No *bona fide* soldier or sailor disqualified on account of age.
 Artificial limbs.
 In what amounts.
 Application, contents, etc.
 Certificate of Auditor, contents, etc.
 County Pension Board; duties.
 Report to State Board.
 County Pension Commissioner; election duties.
 State Board to act on such report.
 Examinations of applicants by County Board.
 List of applicants to be kept by County Board.
 State Board to revise such list.

Sec.

1426. County Board; how constituted, election, etc.
 1427. Provision for Township with no resident qualified to serve as its representative.
 1428. State Board of Pensions; how constituted, clerk, etc.
 1429. Compensation of Pension Boards.
 1430. Provisions for Counties without Pension Boards.
 1431. Comptroller-General to issue warrants for amounts due.
 1432. Comptroller-General to prepare forms.
 1433. Names of pensioners omitted by mistake to be re-instated.
 1434. Pension to be paid out for certain purposes where pensioner dies before receiving it.
 1435. County aid; when and how extended indigent Confederate soldiers.

tion 1410. The sum of at least \$250,000 shall be appropriated to pay the pensions provided for by this act, and in case the same, or such amount as shall be appropriated, shall be insufficient, then the amount so appropriated shall be distributed proportionately among those legally entitled to receive the same: *Provided*, That the pensioners described in Section 1411 as Class A, Class B, Class C, No. 1 and Class C, No. 3 shall have been first in full: *Provided, further*, In case the same, or such amount as shall be appropriated, shall be more than sufficient, then the amount so appropriated shall be distributed proportionately among all those legally entitled to receive the same.

Sec. 1411. The applicant must have been a resident of this State for two years prior to the time of the application.

Appropriations for pensions for Confederate soldiers.

Civ. '02, § 1065; 1902, XXIII, 1029.

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Who entitled
to receive
pensions.Civ. '02, §
1068: 1002,
XXIII, 1029;
1904, XXIV,
877: 1010,
XXVI, 716.

In order to obtain the benefits of this Chapter, the applicant qualified by residence must also show:

(A.) If a man:

1st. That he was a *bona fide* soldier or sailor in the service of the State or Confederate States in the war between the States; and 2d, either (a) that while in such service he lost a leg or arm or sight, or received other bodily injury whereby he has become disabled, or that he is totally disabled by paralysis; and, further, that neither himself nor his wife has an income exceeding one hundred and fifty dollars per annum, nor property sufficient to produce such an income; or (b) that he has reached the age of sixty years and that neither he nor his wife is receiving an income of seventy-five dollars from any source, nor property sufficient to produce such an income.

(B.) If a woman:

1st. That she is the widow of a man who was a *bona fide* soldier or sailor in the service of the State or of the Confederate States in the war between the States; and

2d. That she has never remarried; or, having remarried, is again a widow; and

3d. That either (a) she is fifty (50) years of age, or that her husband lost his life in the service of the State or Confederate States in the war between the States; and

4th. That she has not an income of one hundred and fifty dollars per annum, nor property sufficient to produce same.

5th. The classification of all pensioners shall be as follows:

Class A. Those who, as a result of wounds received during said war, are physically helpless, or who, while in such service, lost both arms or both legs or sight, or who are disabled by paralysis and are unable to make a living, whose income or his wife's does not exceed one hundred and fifty dollars per annum.

Class B. Those who, while in such service, lost one arm or one leg, and whose income or his wife's does not exceed one hundred and fifty dollars per annum.

Class C, No. 1. Those soldiers and sailors disabled during said war, or totally disabled from any cause from earning a living, whose income or his wife's does not exceed one hundred and fifty dollars per annum.

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C, No. 2. Those who have reached the age of sixty years, and whose income or his wife's does not exceed five dollars per annum.

C, No. 3. Widows of those who lost their lives while in service of the State or of the Confederate States, and whose income does not exceed one hundred dollars per annum.

C, No. 4. Widows above the age of fifty (50) years, and whose income does not exceed one hundred dollars per annum.

1412. All widows of soldiers and seamen in the service of the State or of the Confederate States, who were married to such soldiers or seamen at the close of the war in the States, shall be entitled to pensions, irrespective of age of such widows: *Provided*, They are otherwise entitled to the same under existing laws. Pensions for widows.
1903, XXIV, 57.

1413. All soldiers or seamen now entitled to pensions under existing laws, who have become totally blind, or may hereafter become blind, shall be placed in Class A pensioners, and paid accordingly. Blind pensioners.

1414. No *bona fide* soldier or seaman who served the State or the Confederate States in the war between the States, and is otherwise entitled to a pension under existing laws, shall be denied his pension on account of not having reached the age of sixty years. No *bona fide* soldier or sailor disqualified on account of age.

1415. That every man who while he was a *bona fide* soldier or sailor in the service in this State, or in the Confederate States, in the war between the States, lost a limb, upon application to the State Pension Board, be entitled to be furnished with a first-class artificial limb to compensate for such loss: *Provided*, Such application must be approved by the Pension Commissioners of the County in which he resides. Artificial limbs to be furnished.
1907, XXV, 640.

The Comptroller-General is required to furnish such blanks all necessary blanks therefor.

1416. The persons described in the preceding Sections shall be entitled to a pension upon complying with the provisions of this Chapter, and each pensioner of the several classes shall be paid the amounts hereinafter set forth to wit: Amount of pensions.
Civ. '02, § 1067; 1902, XXIII, 1031.

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Class A. Eight dollars per month. Class B. Six dollars per month. Class C, No. 1. Four dollars per month. Class C, No. 3. Four dollars per month.

Class C, No. 2. Three dollars per month. Class C, No. 4. Three dollars per month.

Applications
for pensions;
how and to
whom made.

Civ. '02, §
1068; 1000,
XXV, 119.

Sec. 1417. Before any soldier or sailor shall receive payment provided in this Chapter, he shall make application, in writing, through the Township Representative, addressed to the County Pension Board, to be approved hereinafter directed for each County of the State, setting forth in detail the nature of the disabling wound, the company and regiment or battalion in which he served, and the time and place of receiving the wound, and stating that neither he nor his wife is in receipt of the pension hereinafter specified, and showing, further, the true place of residence within the State by the applicant. The application shall be verified by the oath of the applicant made before an officer in the State authorized to administer oaths, and shall be accompanied by the affidavit of two more credible witnesses, stating that they knew the applicant was a soldier or sailor, or the wife of such, as the case may be, and believe the allegations made in the application to be true. Any person drawing a pension shall be incompetent as a witness in behalf of an applicant and cannot make the proof herein required by affidavit: *Proviso*. That said application shall show that the applicant is not drawing a pension in any other State.

Applications
to be verified.

Civ. '02, §
1069.

Sec. 1418. Such application shall be verified and accompanied by a certificate of the Auditor of the County in which the applicant resides, showing amount of tax return, and that the income does not exceed the amount stated, and that the applicant is not possessed of sufficient property to produce such income, and it shall be the duty of the Auditor to furnish such certificates, if he shall so find the facts, without fee or charge.

County Pen-
sion Board;
duties of.

Civ. '02, §
1070.

Sec. 1419. In each County of the State the said application shall be submitted to a Board composed of four federal soldiers or sailors (to be chosen as hereinafter provided), who shall not be holders of or applicants for pension, and a regular practicing physician to be chosen by them, which said five persons shall constitute the Pension Board. They shall meet on the third Monday of each month.

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ry of each year, and shall examine each applicant rules and regulations prescribed by the State Board nsions. After first being duly sworn, fairly and ially to discharge the duties of their office, and after ths are duly filed in the office of the Clerk of Court, d County Pension Board shall proceed with the dis- of the duties imposed upon them, and shall certify approval to the State Board of Pensions, giving in the reasons which influenced them to grant or oppose pplication, accompanied by all the evidences upon they made their decisions.

1420. Four members of said Board shall constitute ^{Quorum of Board; to re- port to State Board.} orum. A majority of the members of the Board t may determine any matter presented to them, sub- ^{Civ. '02 § 1071.} owever, to a right of review of the State Board. As s such County Board completes its list as above, giv- he names of the pensioners, their residences and ats per month to which they are entitled, they shall y the same to the State Board of Pensioners, to be ved by them.

1421. Each County Pension Board of the respective ^{County Pen- sion Commis- sioner; elec- tion; duties.} ies in this State, shall, at its first meeting in January, ch year, elect one of its members to the position of on Commissioner, whose duty it shall be to attend in ^{1902, XXIII, 1028.} uditor's office of his County every Saturday, during the n of January, in each year, for the purpose of meeting ension applicants, and to arrange and fix up all pen- apers in a condition to go before said Board, which Board shall meet on the first Monday in February, of year, to pass upon said applications. Said Commis- r shall be, and is hereby, authorized and required to nister oaths. When said applications have been oved by said Board said Commissioner shall write up sts of same. Said Board shall meet again on the first lay of February, in each year, to sign said lists, and ediate forward same to the Comptroller-General. Pension Commissioner shall be allowed two dollars day as pay for his services, but shall not be paid for e than ten days' service in one year.

1422. The State Board of Pensioners shall there- pass upon the names contained in said lists, and shall

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1426. The County Board of Pensions shall be constituted as follows: On the first Saturday in August of each year the surviving soldiers and sailors of the State or the Confederate States in the late war between the States, in each Township, shall meet at a time and place therein designated by the Chairman of the County Board, by two weeks' notice, and having organized by electing a Chairman and Secretary, shall elect by ballot an ex-Confederate soldier or sailor, not a holder of nor an applicant for a pension, as the representative of the veterans of said Township.

How County Board of Pensions constituted: elections of, etc.

Civ. '02, § 1076.

The representatives so elected shall meet at the County House on the first Monday of September following, and having organized by electing a presiding officer and Secretary, shall elect from their own number four, who, together with a competent physician, and elected one of themselves as chairman, shall constitute, together with such members as the County Pension Board for one year, or until their successors are elected and qualified. In those Townships where the veterans failed to select a representative as provided, the Chairman of the County Pension Board may appoint some person otherwise qualified as a representative until such election shall be had; and in those Townships where the survivors failed to organize a County Board as herein provided, the State Board of Pensions may appoint four ex-Confederate soldiers or sailors otherwise qualified to organize and constitute said County Board.

1427. In case there shall be in any Township no person qualified to act as representative, then the veterans of said Township, or in case of their failure to do so, the Chairman of the County Pension Board may appoint, some properly qualified veteran residing elsewhere in said County.

Provisions for township where no one qualified to serve on the Board.

Civ. '02, § 1077.

1428. The Comptroller-General shall be Chairman of the State Board of Pensions, and he, with three ex-Confederate soldiers, not holders of nor applicants for pensions, shall be elected by the United Confederate Veterans' Association at their annual meetings, together with a competent person to be selected by them, shall constitute the said Board of Pensions. That the Comptroller-General may appoint a suitable person to serve as Clerk of State Board of Pensions; said Clerk to receive a salary of six hun-

State Board of Pensions; of whom constituted, clerk of, etc.

Civ. '02, § 1078.

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um for his services. In case of
Veterans' Association, the three
ed shall be appointed by the Go
the elected members of said Boar
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qualified.

ompensation of the members
rds shall be two dollars per day,
l the compensation of the State
per day, not to exceed five day
lowed mileage at the rate of five

nties where the survivors fail or
rovisions hereof, the State Boar
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y deem best.

l be the duty of the Comptrolle
first Monday in April of each y
receive a pension hereunder, hi
s may be herein prescribed, so l
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aid out by said Clerk of Court v
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l be the duty of the Comptrolle
cause to be printed forms in bl
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and he shall cause the same to
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in his judgment may be necessa
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for, the amount of the pension to
have been entitled; said amount
at regular appropriation for pe

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the fact of such accident or mistake shall have been
 inquired by said State Board of Pensions, and said
 amounts shall be paid out of said appropriation before the
 same shall be apportioned among the persons entitled
 to the same.

1434. Wherever any person to whom a pension
 shall be paid under the laws of this State shall die before
 receiving the same in any year, the amount shall be paid to
 the clerk of the Court of the County where such claimant
 died, and by him paid out in defraying the expenses of
 the last illness, or a monument, or both of such claims upon
 the same as required in case of executors, and any balance
 shall be paid to the widow, children, person with whom the deceased
 lived at the time of his or her death or in the order named
 without charges or commission: *Provided*, That nothing
 herein contained shall be construed to extend the right to a
 pension beyond the year in which the pensioner shall die.

1435. The County Board of Commissioners of the
 several Counties of this State shall have the right, in their
 discretion, to extend County aid to indigent Confederate
 soldiers in their respective Counties, at the home of such
 soldier or at the home of some relative or friend: *Provided*,
 that it shall be established to the satisfaction of said Board
 that such soldier is deserving of aid and is physically unable
 to earn a support, and that he does not obtain a sufficient
 support from the State to support him.

That no ex-Confederate soldier shall be disfranchised by
 reason of his having received, or receiving, such aid as afore-

Pension to
 be paid out
 for certain
 purposes
 when pensioner
 dies before
 receiving it.

1905, XXIV
 953.

County aid;
 when and
 how extended
 indigent Con-
 federate sol-
 diers.

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tion 1436. The South Carolina Medical Association, their successors, in their corporate capacity, together with the Attorney and Comptroller-General of the State, their successors in office, are a Board of Health for the State of South Carolina, to be known as the State Board of Health.

State Board
of Health;
how constitu-
ted.

Civ. '02, §
1084.

c. 1437. Said Board is invested with all the rights and charged with all the duties pertaining to organizations of such character, and shall be the sole adviser of the State in questions involving the protection of the public health within its limits. The Board shall make an annual report to the Legislature on all matters relating to its action. It shall be the duty of the State Board of Health, through its representatives, to investigate the causes, character and means of preventing such epidemic and endemic diseases to which the State is liable to suffer from; the influence of climate, location and occupations, habits, drainage, scavengering, sewer supply, heating and ventilation; and shall make an inspection annually, or oftener if necessary, of the sanitary condition of all institutions provided as State charities or supported at the public expense. They shall supervise and regulate the system of the State, and shall annually require reports from the Health Officers. Rules may be prescribed in all matters relating to the same. They shall also be authorized to regulate commerce by land and sea. This quarantine shall be enforced except by the advice and consent of the Governor.

Rights and
duties of, in
general.

Civ. '02, §
1085.

Association, at its first meeting after 1913, and every seven years thereafter, to be recommended to the Governor, and they shall be authorized to co-operate with the State Board of Health to constitute an Executive Committee, to hold meetings at the intervals of the meetings of the Board. This committee shall make reports to the State Board of Health. The committee shall be removable by and at the request of the Governor, upon the request of the State Board of Health, for neglect of duty, or other causes set forth in the charter. The members of the Executive Committee shall be filled by appointment by the Governor.

Executive
Committee;
appointment
and duties of.

Civ. '02, §
1086.

A. D. 1912.

Governor, on recommendation of the State Board of Health or of the Executive Committee when such vacancies occur during the intervals of the meetings of the Association.

Committee; how to organize: Registrar-General: control over local Boards, etc. **Sec. 1439.** The Executive Committee shall, immediately after their appointment, proceed to organize by electing a Chairman and Secretary, the latter to be *ex-officio* Registrar-General of the State. They are authorized and empowered to divide the State into health districts, and in districts in which no Boards of Health exist they are required to appoint sub-Boards of Health, which shall consist of two practicing physicians and one layman. The Boards of Health, established as hereinafter provided, shall be subject to the supervisory and advisory control of the State Board of Health, through its Executive Committee. They shall pass no ordinances, nor consider any matters of force, which are repugnant to the rules and regulations of the State Board of Health.

Civ. '02, § 1087. **Sec. 1440.** It shall be the duty of the State Board of Health, through its representatives, to investigate the causes, character and means of preventing such epidemic and endemic diseases as the State is liable to suffer from the influence of climate, localities and occupations, drainage, scavengering, water supply, heating and ventilation; and shall make inspections annually, or oftener if necessary, of the sanitary condition of all institutions provided as State charities or supported at the public expense.

Duties as to epidemic diseases. **Other investigations.** **Civ. '02, § 1088.** **Sec. 1441.** The State Board of Health shall supervise and control the quarantine system of the State, and annually, or oftener if necessary, require reports from the Health Officer on such forms as may be prescribed by the State Board of Health. They shall be authorized to establish quarantine both by land and by water. The quarantine shall not be established except by the order and consent of the Governor.

Supervision of quarantine. **Civ. '02, § 1089.** **Sec. 1442.** It shall be the duty of the Executive Committee of the State Board of Health to recommend such provisions of law as shall be deemed necessary for the thorough organization of a system of registration of vital statistics throughout the State, and shall prepare the necessary methods and forms of obtaining and preserving vital statistics.

Registration of vital statistics. **Civ. '02, § 1090.** **Sec. 1443.** It shall be the duty of the Executive Committee of the State Board of Health to recommend such provisions of law as shall be deemed necessary for the thorough organization of a system of registration of vital statistics throughout the State, and shall prepare the necessary methods and forms of obtaining and preserving vital statistics.

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Sec. 1443. The State Board of Health is invested with authority to direct and supervise the action of the local Board of Health in incorporated cities and towns and in all municipalities in all matters pertaining to said local Boards, and upon a refusal or neglect to execute the orders of the State Board of Health, the members of the local Board shall be subject to removal by the said State Board of Health. Such removal shall not be made until ten days' notice of the charges against the offending members of the local Board shall have been mailed to or served upon him or them, stating the cause of complaint and the time and place for the answer to said charges. Said removal to be in addition to any penalty now imposed by law; and it shall be the duty of the Secretary of said local Board to report to the State Board of Health all such facts and statistics as may be required of them, under such regulations and upon such blanks as may be presented and furnished for the purpose, and any Secretary of a local Board who shall fail to make such return or refuse to obey any regulation or order of the State Board of Health shall be deemed derelict in duty, and upon failure to show cause for same shall be subject to removal by the said State Board of Health.

Supervision
over local
Boards of
Health.

Civ. '02, §
1091.

Sec. 1444. All local Boards of Health in the several counties in the State outside of incorporated towns and cities, are hereby invested with the same powers and duties that are now imposed by law upon local Boards of Health in incorporated cities, towns and villages in the State of South Carolina: *Provided*, That nothing herein contained shall be construed as giving to local Boards outside of incorporated towns and cities the right to enforce compulsory vaccination.

Local Boards
of Health out-
side of in-
corporated
towns.

Civ. '02, §
1092.

For further provisions as to powers of municipal corporations to compel vaccination, see Chapter on Municipal Corporations.

Sec. 1445. The State Board of Health and its duly appointed representatives shall have power to order and enforce the vaccination of all such persons as it may consider necessary for the preservation of the public health: *Provided*, That any person who has been exposed to the contagion and refuses vaccination, shall not be forcibly vaccinated, but in the discretion of the State Board of

State Board
of Health to
enforce vac-
cination.

Civ. '02, §
1093.

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Regulations
for transpor-
tation of dead
bodies of con-
tagious or in-
fectious dis-
ease.

Civ. '02, §
1094.

Health, or their agent, be quarantined and guarded until the period of incubation of the threatened disease has passed.

Sec. 1446. The transportation of bodies dead of any dangerous, contagious or infectious disease is absolutely forbidden, into, through or out of the State, or any city or town within the same, except on compliance with such rules and regulations as shall be made and ordained by the State Board of Health. And for the purpose of enforcing this Section, the said Board is hereby empowered and required by its Executive Committee to make and declare rules and regulations declaring what diseases shall be regarded as dangerous, contagious or infectious, and to classify the same, designating such are of so dangerous a character that transportation of the dead is absolutely forbidden, and prescribing such regulations as the said Board may deem proper for the transportation of the dead from other causes. That said rules and regulations as may be adopted by the said Board be submitted to the Governor for his approval, and be published in at least three daily papers of this State, and be advertised and disseminated by such other methods as to the Board may seem expedient, and such rules and regulations shall go into effect on the approval of the Governor.

License to is-
sue to em-
balmers of
dead bodies of
contagious or
infectious dis-
eases.

Civ. '02, §
1095.

Sec. 1447. The State Board of Health is hereby authorized and directed to issue licenses to such persons as, on examination under the direction and supervision of said Board, are found proficient in the art of embalming and disinfecting dead bodies, and otherwise preparing them for transportation. And in all cases when, under the rules and regulations of health, special preparation of dead bodies is required for transportation, a certificate of such preparation shall be required, to be signed by a person so licensed, in such manner and form as may be prescribed by said Board.

State Board
of Health to
co-operate
with Federal
Government
in protecting
live stock in-
dustry.

Civ. '02, §
1096.

Sec. 1448. It shall be the duty of the State Board of Health to co-operate with officials of the Federal Government and with those of other States in establishing interstate quarantine lines, and in making and enforcing of such rules and regulations as shall best protect the live stock industry of this State against infectious or contagious diseases.

The said State Board of Health shall prescribe such rules

regulations as are necessary within said quarantine lines for the preservation of the live stock industry within such city and duly promulgate the same.

1449. It shall be the duty of the Mayor or Intendant of every incorporated city, town or village in the State of South Carolina to appoint, by and with the consent of the Mayor or Town Council of every such city, town or village,

persons, not members of such Council, in cities or towns of less than a thousand or less population, and in cities exceeding a thousand in population the number may be increased to five, as the city may determine, one or more of whom shall be reputable physicians of not less than two years' standing in the practice of his profession. The Mayor or Intendant of said city or town shall designate one-fifth of the members of the Board to serve one year, one-fifth to serve for two years, one-fifth to serve for three years, one-fifth to serve for four years, and one-fifth to serve for five years, and thereafter one-fifth of the number of said Board shall be appointed annually to serve for five years. The members shall serve without compensation; and in case any of these, after accepting and being duly appointed, shall fail to qualify and serve on the Board he shall be subject to a fine of twenty-five dollars, to be imposed and collected by the Town Council: *Provided, however,* That in all cases of vacancies on said Board occurring from any cause at any time said vacancies shall be filled in the manner hereinbefore prescribed by appointment for the unexpired term or terms of the members aforesaid.

1450. The members of the Board shall severally take an oath prescribed for town and city officers, and shall annually organize by the selection of one of their number as President. They shall elect a Secretary, who shall keep minutes of their proceedings and perform such other duties as may be prescribed by the Board, and a Health Officer, who shall execute the orders of the Board and for that purpose shall have and exercise the powers and authority of a policeman of the town or city. The Secretary and Health Officer shall receive such salary as may be fixed by the Board, ratified by Council, and shall hold their offices at the pleasure of the Board. They shall severally give bond to the town or city in such sums as may be fixed by ordi-

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State Board
to prescribe
regulations,
etc.

Local Boards,
how appointed;
terms of
office.

Civ. '02, §
1097.

Vacancies;
how filled.

Oath.

Civ. '02, §
1098.

Organization.

Salary

A. D. 1912.**Bond.****Oath.****Fees.**

Oaths may
be adminis-
tered.

Rules and
regulations.

Civ. '02, §
1099.

Hospitals.

Duty of phy-
sicians.

Civ. '02, §
1100.

Powers of
Board.

Civ. '02, §
1101.

nance for the faithful discharge of their duties, and shall also take and subscribe the oath required by members of the Board. All fees which shall be collected or received by the Board or any officer thereof, in his official capacity, shall be paid over into the town or city treasury monthly, together with all penalties which shall be recovered for the violation of any regulation of the Board. The President and Secretary shall have full power to administer oaths or affirmations in any proceedings or investigations touching the regulations of the Board, but shall not be entitled to receive any fee therefor.

Sec. 1451. The said Board of Health shall have power and it shall be their duty to make and enforce all needful rules and regulations to prevent the introduction and spread of infectious or contagious diseases by the regulations of intercourse with infected places, by the arrest, separation and treatment of infected persons, and persons who shall have been exposed to any contagious or infectious disease, and by abating and removing all nuisances which they shall deem prejudicial to the public health, to enforce vaccination, to mark infected houses or places, to prescribe rules for the construction and maintenance of house drains, waste pipes, soil pipes and cesspools, and make all such other regulations as they shall deem necessary for the preservation of the public health. They shall also have power, with the consent of the Town or City Council, in case of the prevalence of any contagious or infectious disease within the town or city, to establish one or more hospitals and to make provisions and regulations for the management of the same.

Sec. 1452. The Board may in such cases appoint as many ward or district physicians and other sanitary agents as they may deem necessary, whose salaries shall be fixed by the Town or City Council before their appointment. It shall be the duty of all physicians practicing within the town or city to report to the Secretary of said Board of Health the names and residences of all persons coming under their professional care afflicted with such contagious or infectious diseases, in the manner directed by said Board.

Sec. 1453. The said Board of Health shall have power, as a body or committee, as well as the Health Officer, together with his subordinates, assistants and workmen, under and by

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of said Board, to enter at any time upon any premises in the town or city upon which there is suspected to be any contagious or infectious disease or nuisance detrimental to public health, for the purpose of examining and abating the same; and all written orders for the removal of nuisances issued to the said Health Officer by order of said Board, attested by the Secretary, shall be executed by him or his subordinates and workmen: *Provided*, The person or persons refusing to remove such nuisance, and the cost of expenses thereof, shall be recoverable from the owner or owners of the premises from which the nuisance shall be removed or from any person causing or maintaining the same, in the same manner as debts of like amounts are now collected by law.

Sec. 1454. The said Board of Health shall have power to create and maintain a complete and accurate system of registration of births and deaths which may occur within the town or city, and to compel obedience to the same upon the part of all physicians and other medical practitioners, druggymen, magistrates, midwives, undertakers, sextons, and other persons from whom information for such purposes properly be required.

Sec. 1455. The said Board of Health shall have the duty of inspection, and it shall be their duty, to visit and inspect every building within the town or city, and in particular, but not limited to, the court house and various offices therein contained, the jail and other prisons located in their respective cities and towns, in regard to the purity of the water supply, the lighting and ventilation and heating of the various offices in the court house and the cells and other rooms occupied by prisoners in the jails; they shall inquire into the efficiency of the drainage and plumbing of these public buildings, the disposition of garbage and refuse, the closet accommodations, the condition of the soil pipes, waste pipes and cesspools, and shall recommend to the County authorities the removal of all nuisances on the premises on which said buildings are situated which might prove detrimental to the public health; they shall report the number of prisoners, their diet and treatment, the diseases and number of cases of sickness which has occurred among the prisoners during the three previous months. And it shall be the duty of every physician who attends in sickness any prisoner in jail to

Registration
of births and
deaths.Civ. '02,
1102.Inspection.
Civ. '02,
1103.Duty of
attendant phy-
sician.

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Inspection of
schools, etc.Civ. '02, §
1104.Water sup-
ply, etc.Schools - to
be closed dur-
ing epidemic.Every water
company to
have analysis
of water made
and analysis
published.1907, XXV,
586.

report immediately to the Secretary of the Board of Health the name, sex, age, race and disease of said prisoner.

Sec. 1456. It shall be the duty of the Board of Health as a body, or by committee, with the Health Officer, to make quarterly visits and inspections to all schools, seminaries or colleges (while in session) which are supported in part or entirely by public taxation, and examine and report on the sanitary condition of the same, the abatement and removal of garbage, refuse matter and nuisances which may prove prejudicial to the health of the pupils. They shall inquire into the purity of the water supply, the condition and efficient working of the drains, waste pipes, soil pipes and cesspools, the ventilation, lighting of the dormitories, lecture and study rooms of the buildings and the appliances in use for fire escapes. In case of the epidemic prevalence of contagions or infections, and in order to prevent the spread of the same, the Board of Health, by and with the consent of the City or Town Council, may order the schools, seminaries or colleges, in such town or city, partially or entirely supported by public taxation, closed until such time as they may deem it safe to reopen them. The Board of Health shall have the right to declare any epidemic or cause of ill health so injurious as to make it necessary to close any or all of the private schools in the limits of such city or town. Whatever sanitary conditions or evils shall be found by the Board of Health to exist in or around the public colleges, schools, etc., shall be reported by the Secretary of the Board of Health to the Trustees of the same, who shall take immediate steps to remedy the sanitary defects according to the rules and regulations prescribed by the Board of Health.

Sec. 1457. Every water company, whether owned by private individuals or corporations or by a municipality, shall have made, not less frequently than once in every three months, at its own expense by a chemist to be approved by the State Board of Health, a chemical analysis, and once every three months a bacteriological examination at its own expense by a biologist to be approved by the State Board of Health, of a sample of its water drawn from a faucet used for drinking purposes, packed and shipped in accordance with the instructions to be furnished by the Secretary of the State Board of Health, and the result of such examination

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be verified by a statement under oath of the chemist or biologist making the same, and published at least once in a newspaper published in the town or city using said water, ten days after receipt thereof.

1458. For carrying out the provisions of this Chapter the State Board of Health is authorized and empowered to cause the bacteriological examination made as herein provided for and to charge for the same the sum of five dollars for each examination. Fee for examination.

1459. As a check and as a guarantee of the faithful performance of the requirements laid down in this Article, the State Board of Health shall make or have made by its authorized agents, such inspections of the water sheds and chemical and bacteriological examinations of the public supplies of the State as may be deemed necessary to insure their purity. Should such inspections or examinations show condition or conditions dangerous to the public health, the Secretary of the State Board of Health shall advise the Mayor, the municipal health officer and the superintendent or manager of the water works at fault, and demand the immediate removal of said dangerous condition or conditions. If at the end of thirty days after the service of notice and demand, the said dangerous condition or conditions shall have not been removed to the extent that due diligence could accomplish such removal, the said Secretary shall have printed in one or more of the local newspapers a plain statement of the facts for the information and protection of the citizens using the water: *Provided*, that nothing herein contained shall be construed to prohibit any municipality from imposing such additional tests and requirements as they may deem necessary, and the decision of the municipal authorities shall be supreme. Water sheds to be inspected.

Violation of the last three Sections, see Criminal Code, Section —

1460. The Board shall meet at least once a month for the transaction of business, and shall make and cause to be published all necessary rules and regulations for carrying into effect the powers and functions with which it is hereby invested, which rules and regulations, when approved by the Town or City Council, and when advertised in the same manner as other ordinances, shall have the force of law. Meetings.
Civ. '02, § 1105.

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ed expedient or necessary by the State Board of Health approved by the Governor; and to regulate and control keeping or slaughter of all kinds of cattle, sheep, goats swine or other animals in any city or town or any part of; and to regulate and prohibit the accumulating of and all decaying or injurious vegetables or other substances in any place in such city or town, public or private; to prohibit and remove any nuisance or offensive matter on any public highway, road, street or other place, public or private, in such city or town, and to cause the removal of the same at the expense of the owner thereof if he decline to remove it after notice to that effect; and to regulate and control, or prohibit, the cleansing of sewers and the dumping of garbage, or using of any noxious or unsuitable material for filling town lots, marshes, ponds and other places, and to provide for filling of sunken or low lots and other places in any part of said city or town. Sub-Boards constituted as provided in Section 1439 and local Boards of Health are charged with the duty of investigating within their districts all matters of sanitary interest or scientific importance bearing in any wise upon the protection of the public health, and shall report to the Executive Committee at such times and in such manner and form as the Executive Committee may prescribe.

Sec. 1464. Whenever such nuisance, source of foulness or source of sickness hazardous to public health shall be found on private property, the Board of Health of the city or town in whose limits it may be shall at once notify the municipal authorities, who shall require the owner to remove or abate the same at his own expense, within such time as the Board may deem the public health to require, a duplicate of the notification being left with one or more of the tenants or occupants. If the owner or agent is unknown, resides out of the State, or cannot be reached with the notice readily enough for the necessities of the public health, a notice left at the house or premises with the tenant or occupant, or published in a newspaper printed in the County, and if there is no such newspaper, posted on the door of the front house or postoffice, shall suffice; and if the owner thus notified shall not comply with such notification or order within the time specified the municipal authorities shall

Powers as to removal or abatement of nuisances, etc.

Civ. '02, § 1100.

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Sec. 1467. The Executive Committee of the State Board of Health shall have power, and it shall be their duty, to appoint local Boards of Health in all unincorporated towns and villages, where the population of any of said towns and villages is not less than one hundred inhabitants, which local boards shall consist of seven members, one of whom shall be a regularly licensed practicing physician, one the nearest magistrate, and five laymen: *Provided, however,* That no Board of Health shall be appointed until one-fourth of the qualified electors of such unincorporated towns and villages shall have, in writing, asked for the appointment thereof.

State Board
of Health to
appoint local
Boards in
towns.

1906, XXV
125.

Sec. 1468. The members of said local Boards shall, immediately after their appointment, organize by the selection of one of their number as President. They shall select a Secretary, who shall keep the minutes of their proceedings, and perform such other duties as may be prescribed by the board, and for the purpose of executing and the enforcement of any of the orders or rules prescribed by said Boards, the said Magistrates shall be invested with power and authority equal to that of a police officer in municipalities.

Organization
of local
Boards.

Sec. 1469. The said local Boards of Health shall have power, and it shall be their duty, to make and enforce all saluteful rules and regulations to prevent the introduction and spread of infectious or contagious diseases by the regulation of intercourse with infectious places, by the arrest, separation and treatment of infected persons, and persons who shall have been exposed to any contagious or infectious disease, and by abating and removing all nuisances which they shall deem prejudicial to the public health, to enforce vaccination, to mark infected houses or places, to prescribe rules for the construction and maintenance of house-drains, waste pipes, soil pipes and cesspools, and make all such other regulations as they shall deem necessary for the preservation of the public health. They shall also have power, in case of the prevalence of any contagious or infectious disease within any of the said towns or villages, to establish one or more hospitals and quarantine stations, and to make provisions and regulations for the management of the same.

Powers and
duties of local
Boards of
Health.

Sec. 1470. That all penalties which attach by law to Boards of Health of incorporated cities and towns and to

Penalties.

1912.

persons violating the rules and regulations there-
hereby made applicable to Boards of Health org
under the last two Sections, and to persons violati
rules and regulations thereof: *Provided, however, T*
the expenses incurred by the provisions of the last tw
tions shall be borne by the communities incurring
expenses.

Sec. 1471. Upon the approval of this Act the Go
shall, upon the recommendation of the Executive Com
of the State Board of Health, appoint a State
Officer, who shall be a graduate of a regular reg
medical college and a physician, skilled in hygien
sanitary science; he shall qualify by giving an officia
in the usual form, in the penalty of two thousand
conditioned for the faithful discharge of his duties
approved and filed as the bonds of other State office
shall take an oath of office and the usual constitutional
required of a State officer; he shall hold office at the
ure of the Executive Committee of the State Bo
Health and until his successor is elected and qualifi
shall receive an annual salary of twenty-five hundre
lars, and his necessary traveling expenses, one th
dollars, if so much be necessary, payable quarterly,
the contingent fund appropriated to prevent the spr
contagious and infectious diseases, on the warrant
Comptroller-General, on accounts approved by the
Board of Health; he shall hold his office in the
Columbia, furnished him by the State.

Sec. 1472. The State Health Officer shall be the
tary and Executive Officer of the State Board of
and shall have power to administer oaths and take
tions in the line of duties; and when directed by the
tive Committee of the State Board of Health, or
Chairman, when the Board is not in session, he shall
gate the reported causes of communicable or ep
disease, and shall enforce or prescribe such pre
measures as may be needed to suppress or prevent the
of said diseases, by proper quarantine or other meas
prevention, as may be necessary to protect the citizens
State. The State Health Officer shall have power,
shall be his duty, to declare, when the facts justify

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to be infected, and in case of hydrophobia or other diseases transmitted from animals to man, he shall declare any animal or animals to be quarantine, and shall place all restrictions upon ingress and egress of persons or animals therefrom as may be, in his judgment, necessary to prevent the spread of disease from the infected locality.

1473. All Sheriffs or Constables in the several counties of this State, and police officers and health officers in cities and towns, shall aid and assist the State Health Officer, and shall carry out or obey his orders, or those from the State Board of Health, to enforce and carry out any and all restrictive measures and quarantine regulations that may be prescribed; and the said State Health Officer shall make immediate report of his acting and doing to the State Board of Health, or its Chairman, when the Board is not in session.

1474. The State Board of Health, or its Chairman, when the Board is not in session, shall have power, by its members or through its Health Officer, to impose upon all rail and navigation companies, vessels or cars, such restrictions and regulations as to inspections, quarantine or sanitary rules as, in their judgment, may be necessary to protect the health of the people of the State, and which are not in conflict with Acts of Congress already passed or that hereafter be ordained in that regard.

1475. It shall be the duty of the State Health Officer, when it is deemed necessary by the municipal officers of any town or city, or the County Board of Commissioners of any County, to visit cities, towns, villages or localities where disease is prevalent or threatened, and to investigate and to advise with the local authorities or persons as to such measures as may tend to prevent the spread of disease, or to remove or abate causes that may tend, cause or intensify diseases, and to advise, when practicable or possible, as to measures of sanitation and hygiene, and to investigate and advise as to all matters as to food or water supply, sewerage or drainage, or as to ventilation or heating or lighting, or other measures connected with public sanitation or safety: *Provided*, Nothing herein contained shall be construed to conflict with the present law providing for periodical examination of city water supplies.

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Shall be
Secretary of
State Board
of Health.

Sec. 1476. The State Health Officer shall be Secretary of the Executive Committee of the State Board of Health. He shall be the custodian of books, papers, instruments and moneys belonging to the State Board of Health, or to be entrusted to his care. He shall summon the Board to meetings, and shall attend all meetings of the Board, and discharge the duties appertaining to the office of Secretary.

ARTICLE II.

PHYSICIANS, APOTHECARIES, DENTISTS AND TRAINED NURSES.

Sac.	Sac.
1477. What physicians qualified to practice medicine.	1500. Sale of poisons, receptacles to be kept.
1478. State Board of Examiners.	1501. Poisonous medicines; how labeled.
1479. Meetings of Board.	1502. Patent medicines must be labeled without license.
1480. Duties of Board.	1503. Dentists must have diploma from Board of Examiners.
1481. May revoke license of any physician or surgeon.	1504. Board of Dental Examiners; how constituted.
1482. Diplomas from medical colleges.	1505. Meetings of Board of Examiners; general powers; fees.
1483. Curriculum.	1506. Book of registry; transcript from.
1484. Graduates of medical colleges.	1507. Quorum.
1485. Licenses of other State Boards.	1508. One member of Board to grant license; when.
1486. Standard.	1509. Each dentist to keep record of cases treated.
1487. Records.	1510. South Carolina Dental Association a body corporate.
1488. Compensation of Boards.	1511. State Board of Examiners to examine applicants for registration of trained nurses.
1489. No compensation where law violated.	1512. Unlawful to act as nurse without being registered.
1490. Applicant may appeal to Governor, who may order re-examination.	1513. Certain nurses may be registered without examination.
1491. Fees for testifying at inquests.	1514. Same.
1492. Apothecaries, etc.; Pharmaceutical Association to appoint Boards to examine.	1515. How registered nurses styled.
1493. Powers of Boards.	1516. Application blanks for nurses; records.
1494. Licenses must be obtained from.	1517. Board may revoke license.
1495. Applicants to undergo examination by.	
1496. Who exempted from examination.	
1497. Association to preserve record.	
1498. To register names of all pharmacutists.	
1499. To report annually to General Assembly.	

Section 1477. No person shall practice medicine or surgery within the State, unless he or she is twenty-one years of age, and either has been heretofore authorized so to do pursuant to the laws in force at the time of his or her authorization; ¹⁰¹ or is hereafter authorized to do so by subdivisions of this Article.

Any person shall be regarded as practicing medicine, within the meaning of this Article, who shall treat, operate or prescribe for any physical ailment of another, except when engaged solely in the practice of osteopathy. But nothing in this Article shall be construed to prohibit services in cases of emergency, or the domestic administration of medical remedies.

Section 1478. There shall be established a State Board of Medical Examiners, composed of eight reputable physicians, surgeons, one from each of the seven Congressional Districts, and one from the State at large, to be nominated by the State Medical Association, and appointed and commissioned by the Governor. The term of office of the members of the Board shall be for a period of two years, and until their successors in office shall have been appointed and commissioned. Any vacancy in said Board of Examiners by death, resignation or otherwise, shall be filled in the same manner as above specified: *Provided*, That the Governor shall have the right to reject any or all of the members nominated, upon satisfactory showing as to the unfitness of the members rejected. In case of such rejection, former members of the Board shall hold over until their successors can be appointed in the manner as above provided.

The members of the Board first appointed under the provisions of this Section shall be divided into two classes. The first class to consist of the four members from the odd number Congressional Districts of the State, and the second class of the remaining four members, the three from the even number Congressional Districts with the one from the State at large. The first class shall hold office under the said appointment for the period of two years, until 1905; the second class for one year from the date of their appointment, until 1904. Thereafter the term of office of the first class shall expire on each odd number year of the calendar, and those of the second class on each even number year of

A. D. 1912.

What physicians
are qualified
to practice
medicine.

1904, XXIV,
512; 1905,
XXIV, 938;
1908, XXV,
1083.

Who regard
ed as practicing
medicine

State Board
of Examiners

A. D. 19

physician will be considered as a legally qualified practitioner, or as having fully complied with the law until he shall have obtained said registry. In the interim between meetings of the Board, the President and Secretary of the Board shall be allowed to grant temporary license to practice medicine until the next regular meeting of the Board, to such persons as would, under the above Section, be eligible for examination. Said temporary license shall entitle the holder to registry with the Clerk of the Court of the County in which he resides, but at the next regular meeting of the Board the applicant must come up for the regular examination for permanent license.

Sec. 1481. The said Board of Medical Examiners is authorized and empowered to suspend or revoke, ^{May revoke license of a physician or surgeon.} on appeal, to revision by the Circuit Courts of the State, by a majority vote of its total membership, the license of any practicing physician or surgeon qualified under any provision of this Article, and whether qualified prior or subsequent to the passage of this Article, after due notice and fair opportunity for hearing, upon its being made satisfactorily appear that the holder thereof is guilty of felony or gross immorality, or is addicted to liquor or drug habit to such a degree as to render him or her unworthy or unfit to practice medicine in this State, or has been convicted in a Court of competent jurisdiction of illegal practices. And the said Board is further authorized and empowered to administer oaths in the taking of testimony upon any and all matters pertaining to the business or duties of the Board: *Provided*, that pending an appeal under this Section the doctor under charges shall practice his or her profession until the decision of the tribunal appealed to.

Sec. 1482. All persons who hold diplomas from any ^{Diploma from medical colleges.} medical college or schools of established reputation, given prior to the passage of this Article, and who present certificates of their good moral character, and of their sobriety, from some reputable person or persons known to the Board, and who give evidence of sufficient preliminary education equivalent to the possession of a teacher's first grade certificate), shall be eligible for examination before the Board, irrespective of their time of attendance upon medical lectures; but no person who shall graduate after the passage

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of this Article shall be eligible to appear before the Board for examination unless he or she shall give evidence, in addition to sufficient preliminary education, that he or she has attended four full courses of lectures of at least twenty-six weeks each, no two courses being in the same year, and has received a diploma of M. D. therefrom: *Provided*, That nothing in this Article contained shall be construed to prevent the State Board of Medical Examiners from admitting as eligible for examination before said Board, on both the junior and senior curriculum prescribed in Section 1482 of this Article, any person who satisfies said Board that he or she had been regularly admitted to advance standing in some medical college or school of established reputation, requiring a four years' course of study, and had received a diploma of M. D. therefrom, and is otherwise eligible under the provisions of this Act.

Curriculum. **Sec. 1483.** The Curriculum of the State Board of Medical Examiners shall be divided into two sections; the first comprising the junior or primary branches of medical education, hereafter to be designated as the *Junior Curriculum*. The second, comprising the senior and clinical portion of medical education, hereafter to be designated as the *Senior Curriculum*. The *Junior Curriculum* shall comprise the following branches, namely:

1. General Anatomy.
2. Physiology and Histology.
3. Materia Medica and Medical Botany.
4. Chemistry, Organic and Inorganic, and Medical Physics.
5. Bacteriology and Pathology.

The *Senior Curriculum* shall comprise:

1. Anatomy, Regional or Surgical.
2. Practical Hygiene and Sanitary Science, State Medicine.
3. Practical Urinalysis, Urinary Microscopy.
4. Therapeutics and Toxicology.
5. Surgery, General and Special, Surgical Procedure.
6. Practical Medicine and Diseases of Children.
7. Practical Obstetrics and Gynecology.
8. Medical Jurisprudence.

A. D. 1912.

id examinations shall be conducted either in writing or y, or both, at the discretion of the Board.

Graduates of
medical col-
leges.

e. 1484. All applicants before the Board, holding a oma from a four-year graded medical college of estab- d reputation, whether in or out of the State, who have ued a study of four separate courses, and have attained rk of not less than seventy-five per cent. on each indi- al branch of their curriculum, as evidenced by certifi- from the Dean of their College, shall be exempted from mination in the Junior Curriculum, and shall be exam- only on those subjects contained in the Senior Curri- m, as heretofore outlined. Those applicants who hold omas issued by chartered medical colleges, but whose e of attendance has been less than four years, as above ed, must pass upon both the Junior and Senior riculum, as must also those attending a four years' se who cannot produce a certificate showing that they e attained a mark of seventy-five per cent. on all the nches of their college curriculum.

Licenses of
other State
boards.

ec. 1485. The Board shall be empowered without exam- ion to endorse upon receipt of the license fee of five dol- , the licenses issued by other State Boards having an al standard: *Provided*, Said other State Boards accord he licenses of the South Carolina State Board the same rtesy; and said other State Board licenses, when rorsed, shall entitle the holder to registry in this State. to all the rights and privileges thereby granted.

Standard.

ec. 1486. The standard required by the State Board of dical Examiners shall be an average of not less than enty-five per cent. on all the branches examined upon. d not less than sixty per cent. on any individual branch.

Records.

ec. 1487. The Board shall keep a record of all the pro- dings thereof, and also a record or register of all appli- ts for a license, together with his or her age, time spent the study of medicine, and the name and location of all titutions granting such applicant's degrees or certificates eatures in medicine or surgery. Said books and register ll be *prima facie* evidence of all the matters therein rded.

Compensation
of Board.

ec. 1488. The members of said Examining Board shall eive for their services the same per diem and mileage

Disposition
of balance.

A. D. 191

ical Examiners of the State of South Carolina, and shall
 office as follows: One of them for the term of one
 ; another for two years; another for three years;
 her for four years; another for five years, and another
 six years; each, however, to hold further until his suc-
 or shall have been duly elected and qualified, and the

Pharmaceu-
 cal Exami-
 ers; annu-
 elections; v-
 cancies; nar-
 and meeting
 quorum.

Civ. '02,
 1116.

Association shall, at such election, indicate the person
 en for each of said terms respectively. Annually there-
 r the said Association shall elect one member of said
 rd to fill the vacancy annually recurring, such mem-
 s so elected to hold office respectively for the term of six
 rs, and until his successor shall be elected and qualified.
 case of the death, resignation or removal from the State
 any member of the Board, the President of the Associa-
 n shall appoint in his place a pharmacist to serve for the
 mainder of his unexpired term. The said Board shall be
 led "The Board of Pharmaceutical Examiners," and
 ll meet in the City of Charleston, or any other place in
 s State which may be designated by said Association,
 ce every four months, and keep in session until appli-
 nts who have previously made application to the Secre-
 y of said Board shall have been examined. Four mem-
 rs of said Board shall constitute a quorum for the trans-
 ion of business and the granting of licenses.

Sec. 1493. The said Boards shall alone possess and
 ercise the powers of granting, withholding or vacating the
 ense of pharmacutists, apothecaries and druggists.

Powers
 Boards.

Civ. '02,
 1117.

Sec. 1494. Every pharmacist, apothecary and retail
 uggist, who has not been previously licensed according to
 w, who carries on and conducts the business of such occu-
 tion in this State must have a license therefor from one of
 e above named Board.

Licenses m-
 be obtain-
 from.

Civ. '02,
 1118.

As to Act 1887, repealed.—State v. Talley, 28 S. C., 539; 6 S. E., 824.

Sec. 1495. Each applicant must not be less than twenty-
 ne years of age, and produce satisfactory evidence of hav-
 g served not less than three years under a licensed
 pharmacist, actual time spent at a pharmaceutical college
 nsidered as experience, such time, however, not to be
 ounted double. Before granting such license, except in
 ases hereinafter excepted, each applicant therefor shall

Applican-
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 tion.

1910, XX
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undergo an examination by and before the Board, and of such nature as they shall require; but such examination must include the reading of the manuscript prescriptions and explanations thereof, the discovery or detection of unusual doses of drugs, and especially poisons; recognition and distinguishing of the various roots, barks, leaves, fruits, resins and gum in common use; the proper antidote and administration thereof for the different poisons, and a pharmaceutical knowledge of chemistry and botany.

Charge
therefor: who
exempt

Sec. 1496. The charge for the same, and for granting a license, shall not exceed ten dollars, which amount shall be paid to the Pharmaceutical Association of the State of South Carolina: *Provided, however,* That outside of cities, towns and villages, and in the towns and villages of three hundred inhabitants, or less, where there is no regular pharmacist, practicing physicians shall have the right to compound and sell medicines, upon their obtaining a special license from said Board of Pharmaceutical Examiners, and paying therefor a fee of five dollars. Nothing in this Article, however, shall be construed as intending to hinder or prevent any physician lawfully engaged in the practice of his profession anywhere within this State from putting up his prescriptions or dispensing his own medicines: *Provided further,* That any person who has been continuously actually engaged in the business of retail druggist or pharmacist for twenty (20) successive years before the passage of this Act, and has been a resident of this State during the entire period, shall be entitled to the license herein provided for, without standing any examination, upon paying the fee of ten (\$10) dollars.

Physicians
may dispense
medicine in
practice

Association
to preserve
record.

Civ. Code,
1121

Sec. 1497. It shall be the duty of the Pharmaceutical Association of the State of South Carolina to establish and carry on, and preserve in a book to be kept for the purpose, a register of all pharmacutists, apothecaries, and retail druggists in the State, including the names of persons registered, place of business, the fact whether the person registered be a graduate in medicine or pharmacy, or whether under license granted on examination, and any other matter of information the said Association may see fit to add.

Sec. 1498. It shall be the duty of all licensed pharmacutists, apothecaries, and retail druggists, to have t

es registered in manner aforesaid by the Pharmaceuti-
 Association of the State of South Carolina, and to report
 ally, on or before the first day of November of each
 to the said Pharmaceutical Association of the State of
 h Carolina whether any, and, if yea, what change has
 rred within the then preceding year as to their respec-
 places of business; and for omission or neglect of the
 irements of this Section, or any of them, they shall,
 ectively, incur a fine of twenty-five dollars; and for each
 every registration, or change thereof, the party so regis-
 d shall pay to the Secretary of the Association the sum
 ne dollar.

ec. 1499. The Pharmaceutical Association of the State
 outh Carolina shall make a correct report to the General
 embly of work done by them in accordance with the
 isions of this Chapter, on or before the first day of
 ember in each year.

ec. 1500. Every pharmacist or other person selling any
 on shall be satisfied that the purchase is made for legiti-
 e purposes, and shall keep a book in which shall be
 rded every sale of the following articles, viz.: arsenic
 its preparations, all metallic cyanides and cyanides of
 assium, tartar emetic, corrosive sublimate, aconite and
 preparations, strychnine, and all other poisonous alka-
 ls and their salts, cantharides, ergot, hydrocyanic acid,
 said record also to exhibit the name of the person to
 om sold, place of his residence, and purpose of purchase
 stated; which book shall be kept at all times subject to
 inspection of the Coroner of the County and the Solici-
 of the said Association, or such other persons as either
 them may designate.

ec. 1501. All persons in this State engaged in business
 pharmacutists, apothecaries, or druggists, either in the
 olesale or retail of drugs, shall, to every bottle, vial,
 x or other package containing any poison named in the
 eceding Section, or any one or more of the following
 icles, viz.: oxalic acid, chloroform, belladonna and its
 eparations, opium and all its preparations except pare-
 ric, digitalis and its preparations, henbane and its prep-
 ations, hemlock or conium, or any other article that may
 added to this list by the Pharmaceutical Association of

A. D. 1912

To register
 all names of
 Pharmacu-
 tists.

Civ. '02. §
 1122

To make re-
 ports to the
 General As-
 sembly.

Civ. '02. §
 1123.

Sale of poi-
 son.

Civ. '02. §
 1124

Sale of poi-
 son.

Civ. '02. §
 1125.

A. D. 1912.

expired term of such person or persons, or it may elect a member or members to fill, temporarily, the place or places of such absentees. This Board shall be organized by the election of a President and a Secretary.

Sec. 1505. The Board of Examiners shall meet annually at the time and place of meeting of the South Carolina State Dental Association, giving thirty days' notice in the public newspapers, published in not less than three different places in the State, viz.: one in Charleston, one in Columbia and one in Greenville, of such annual meeting; shall prescribe a course of reading for those who study dentistry under private instructions; shall grant licenses to all applicants who undergo a satisfactory examination; shall keep a book, in which shall be registered all persons licensed to practice dentistry in the State of South Carolina. The expenses of said license shall be fifteen dollars, to be paid by said licensee.

Meeting of
Board of Ex-
aminers.Civ. '02, §
1120.

Notice.

Course of
study.

Licenses.

Registry.

Fee.

Sec. 1506. The book so kept shall be a book of record, and a transcript from it, certified by the officer who has it in keeping, with the common seal, shall be evidence in any Court of the State.

Book of
record.Civ. '02, §
1130.

Sec. 1507. Three members of said Board shall constitute a quorum for the transaction of business; and should a quorum not be present on the day appointed for their meeting, those present may adjourn from day to day until a quorum is present.

Quorum.

Civ. '02, §
1131.

Sec. 1508. One member of said Board may grant a license to an applicant to practice until the next regular meeting of the Board, when he shall report the fact, at which time the temporary license shall expire; but such temporary license shall not be granted by a member of the Board after the Board has rejected the applicant.

One member
of Board may
grant license;
when.Civ. '02, §
1132.

Sec. 1509. Every dentist in this State shall keep a record of all cases treated in his practice, in accordance with a form to be designated by the South Carolina State Dental Association, and furnish his patient with a copy of the same, if so desired by the patient.

Each dentist
to keep a rec-
ord.Civ. '02, §
1133.

See Criminal Code for penalty for practicing dentistry in violation of this article.

Sec. 1510. The South Carolina State Dental Association is a body politic and corporate, may have and use a common

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seal, sue and be sued, plead and be impleaded, and empowered to make all necessary by-laws, not inconsistent with the State laws and Constitution.

7 '02. § **Sec. 1511.** The State Board of Medical Examiners of this State, at their regular annual meetings hereafter,

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Medical
iners to
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such special meetings as the said Board may deem proper and necessary for such purpose, shall, in addition to their present duties, examine all applicants for registration under the provisions of this and the remaining Sections of

Article, for the purpose of determining their qualifications and fitness to give efficient care to the sick, and shall issue a certificate, duly attested by the Secretary of said Board and signed by the Chairman thereof, to all applicants who pass in a satisfactory manner the examination required by the said Board, and who are registered as herein required. That each applicant for examination shall forward with his or her application a fee of two dollars, which shall be deposited with the Treasurer of said Board and used as prescribed by law.

awful to
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nurse
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Sec. 1512. On and after January 1, 1911, it shall be unlawful for any person to practice or pursue the calling of a professional nurse in this State for compensation, unless

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such person shall have furnished to the said State Board of Medical Examiners satisfactory evidence, of such nature and in such form and manner as said Board shall require, that he or she is twenty-one years of age, of good moral character, has received the equivalent of a common school education, and has graduated from a training school connected with a general hospital, where at least two years of continuous residence training, with a systematic course of instruction is given, and has passed a satisfactory examination before said Board and registered as herein required:

ptions.
Provided, That this Section shall not be construed to apply to those who may be registered prior to January 1, 1911, in accordance with the provisions of this Act applicable to such persons as hereinafter declared in Sections 1513 and 1514: *Provided, further,* That this Section shall not apply, at any time, to the gratuitous nursing of the sick by friends or members of the family thereof, nor to persons nursing the sick for hire who do not in any way claim or assume to be, or to hold themselves out as

A. D. 1912.

ed nurses: *Provided, further.* That nothing herein contained shall be construed so as to prevent a professional nurse who does not hold such a certificate from said Board, and who resides in another State, from accompanying and attending a person traveling in or through this State, or journeying therein for his or her health, or any non-resident nurse without such certificate from serving any person in this State in case of necessity or emergency, where such nurse is authorized and empowered to practice his or her profession under the law of the State in which he or she resides; and if there be no such law, when such nurse has received the training required in this Act as a prerequisite examination and registration by said Board of Examiners after January 1, 1911.

Sec. 1513. That all nurses heretofore graduated or hereafter graduated, before January 1, 1911, from such general hospital, and otherwise possessing the qualifications prescribed in this Act, shall be permitted to register and receive a certificate without an examination upon application duly made and upon payment of the prescribed fee, provided that such application be made before January 1, 1911.

Certain nurses may register without examination.

Sec. 1514. That all nurses graduating from training schools in connection with special hospitals, whose standing and reputation shall be approved by the said Board, giving a two years' course, who shall obtain six months' additional training in general hospital, shall be entitled to registration and a certificate without examination before January 1, 1911, upon payment of required fee; and all nurses graduating from such special hospitals shall be entitled to registration and a certificate prior to said date upon passing a special examination before the Board of Examiners, in subjects not adequately taught in the training school from which they were graduated, upon payment of the required fee.

Same.

Sec. 1515. That a nurse who has received his or her certificate according to the provisions herein shall be styled and known as a "Registered Nurse," and no other person, without a certificate from the said Board of Examiners, shall assume such a title or use the abbreviation "R. N.," or any other letters, figures or characters to indicate that he or she is a registered nurse.

How registered nurses to be styled.

D. 1912.

Application
blank: regis-
tration of nurses:
records.

Sec. 1516. That said Board of Examiners shall prepare and have printed application blanks and such other forms as may be necessary to carry out the provisions herein, and shall be furnished to any applicant upon request and without charge. Said Board shall also keep a register in which shall be entered the full name, age, residence, source of training and date of registration of every person to whom a certificate is issued under the provisions herein, and said register shall be at all times open to public inspection, and shall be *prima facie* proof of all matters therein contained. It shall also be the duty of the Board to keep the application of every applicant, together with any additional evidence which may be required by the Board to be offered in support of the qualifications of said applicant, which shall also be open to public inspection.

Board may
revoke certifi-
cate.

Sec. 1517. The said Board of Examiners may revoke any certificate issued under this Act for sufficient cause, of which the Board shall be the judge; but before this is done the holder of said certificate shall have thirty days' notice of such action shall only be taken after a full and fair hearing of the charge, in which counsel may appear for either side, both sides, and only by a majority of the whole Board. *Provided*, That from such judgment or revocation of license the person feeling himself or herself aggrieved shall have the right to appeal to the Circuit Court of the County in which he or she resides, and to the Supreme Court.

For violation of the above Sections in regard to trained nurses, see Penal Code.

ARTICLE III.

QUARANTINE.

Sec.

- 1518. Port of Charleston: administration of quarantine; quarantine officers; appointment, term, salary of.
- 1519. Other ports of State, supervision and control of; quarantine officers, appointment, term, salaries of.
- 1520. Administration of quarantine at the port of Beaufort.
- 1521. Lazaretto, site of.

Sec.

- 1522. Station of quarantine in Charleston harbor.
- 1523. Anchorage ground for vessels at quarantine; how regulated, etc.
- 1524. Vessels subject to quarantine regulations concerning.
- 1525. Vessels at quarantine of November; to whom subject.

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Vessels arriving after first of November; regulations as to.

Vessels at wharves may be ordered to quarantine ground; by whom and how.

Vessels bound North, after examination, may pass on their voyage.

Vessels released from quarantine to deliver permit to city authorities.

Vessels arriving at quarantine may return to sea.

Pilots to ascertain whether incoming vessels are subject to examination.

To notify vessels subject to proceed to quarantine anchorage.

Duties of pilots as to vessels under charge subject to quarantine.

Quarantine officer to board vessels, ascertain condition and report to municipal authorities.

To reside near quarantine grounds; powers.

May cause arrests of persons violating quarantine laws or regulations.

Quarantine vessels distinguished.

Restrictions upon passage and landing of boats, etc.

Lighters not to load or unload quarantine vessels.

Maintenance of passengers during quarantine; how provided for.

Sec.

1541. Criminal passengers may be confined on shore; maintenance of.
1542. Appeal from quarantine officer to Board of Appeal; Board, how constituted; powers of.
1543. Appeal; how made and prosecuted; proceedings on.
1544. Power of quarantine officer to enforce order, lien on vessels.
1545. Sanitary Inspectors; when and by whom appointed.
1546. Duty and powers of Sanitary Inspectors.
1547. Appropriation to pay expenses.
1548. Governor may, by proclamation, declare places infected, etc.
1549. When effect of proclamation to cease; how time extended.
1550. Vessels, etc., from such infected places subject to quarantine.
1551. "Quarantine Officer" to mean Quarantine Officer or his deputies, who must be physicians.
1552. Quarantine Officer may employ force; when.
1553. May fire upon vessels violating law.
1554. Boats and armed men may be employed by Governor to enforce laws.
1555. Harbor Commission of Charleston; authority of.
1556. Quarantine charges.

Section 1518. The administration of quarantine of the Port of Charleston shall be in charge of the Board of Health of the City of Charleston, subject to the advice and supervision of the Executive Committee of the State Board of Health, and they shall have full power and authority to make such rules and regulations for the institution and enforcement of quarantine as they may deem expedient and may be conformable to law.

The quarantine officer of the port of Charleston shall be appointed by the Governor on the nomination of the Board of Health of the City of Charleston, and shall be vested with the powers and authority heretofore by law conferred

Port of Charleston, administration of quarantine Quarantine Officer, appointment, salary of.

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upon the Health Officer of the port of Charleston, and shall exercise the same under the direction and control of the Board of Health of the City of Charleston. He shall receive a salary from said Board at the rate of eighteen hundred dollars per annum, and he shall reside at the quarantine station. He shall be appointed during the month of January, and hold his office for two years, and until his successor shall be appointed, unless sooner removed by the Governor, at the request of the Board of Health of the City of Charleston, or for other reasons satisfactory to him.

For the purpose of carrying out the provisions of Article with regard to the port of Charleston, the sum of two thousand five hundred dollars shall be annually appropriated, to be paid by the State Treasurer, on the order of the Chairman of the Board of Health of Charleston.

Other ports of State; supervision and control of; quarantine officers: appointment, term, salary.

Civ. '02, § 186.

Sec. 1519. The port of Georgetown shall remain under the supervision and control of the Executive Committee of the State Board of Health, and a Quarantine Officer shall be appointed for the said port who shall be vested with power and authority heretofore by law conferred upon the Health Officer, and shall exercise the same under the direction and control of the Executive Committee of the State Board of Health, or such local Board as the said Executive Committee may appoint for that purpose. He shall report to the said Executive Committee, or to the said local Board, all fees collected by him, and shall receive for his services annually five hundred dollars, and one hundred and fifty dollars for boat hire.

Administration of quarantine at the port of Beaufort.

Civ. '02, § 187.

Sec. 1520. The administration of the quarantine of the port of Beaufort, embracing St. Helena entrance and Port Royal, shall be in charge of the Township Board of Health of Beaufort Township, subject to the advice and supervision of the Executive Committee of the State Board of Health, and they shall have full power and authority to make such rules and regulations for the institution and enforcement of quarantine as they may deem expedient and as may be conformable to law. The Quarantine Officers of the ports of Beaufort, St. Helena and Port Royal shall be appointed by the Governor on the nomination of the Township Board of Health of Beaufort Township. They shall be invested with all powers and authority heretofore by law conferred

A. D. 1912.

the Health Officers of St. Helena and Port Royal, and shall exercise such powers and authority under the direction and control of the said Township Board of Health of Beaufort Township. They shall each receive a salary from the said Board at the rate of eight hundred dollars per annum, and the officer at St. Helena entrance one hundred and fifty dollars for boat hire, and the officer at Port Royal one hundred dollars for boat hire, and each shall reside at the quarantine station for which he is appointed. They shall be appointed during the month of January, and shall hold their office for two years, and until their successors are appointed, unless sooner removed by the Governor on the request of the Township Board of Health of Beaufort Township, or for other reasons satisfactory to him. For the purpose of carrying out the provisions herein with regard to the port of Beaufort the sum of two thousand and fifty dollars shall be annually appropriated, to be paid by the Treasurer on the order of the Chairman of the Township Board of Health of Beaufort Township.

Sec. 1521. The site of the Lazaretto attached to the Quarantine Station in Charleston harbor is changed from Morris Island to the point on James Island adjacent to Fort Johnson, upon the lands now the property of the State.

Quarantine
Hospital or
Lazaretto in
Charleston
Harbor.

Civ. '02, §
1138.

Sec. 1522. The station of the Quarantine Officer of the port of Charleston, or his deputies, shall be at a suitable place on Sullivan's Island, or at Fort Johnson, as may be thought best for the expeditious boarding and examination of vessels arriving from all ports into the harbor of Charleston; the location of said station to be determined upon by the Harbor Commission; and the necessary buildings shall be erected for the accommodation of the Quarantine Officer and his deputies.

Station of
Health Officer
in Charleston
Harbor.

Civ. '02, §
1139.

Sec. 1523. The anchorage ground for vessels at quarantine shall be at the ports of Georgetown, Charleston and Hilton Head, and shall be designated by buoys, to be anchored under the direction of the Quarantine Officers; and every vessel subject to quarantine shall, immediately on her arrival, anchor within the anchorage, and there remain, with all persons arriving on her, subject to the examination and regulations imposed by law. For the purpose of quarantine, the port of Hilton Head shall be held to include the port of Beaufort. The quaran-

Vessels to
anchor at an-
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lations. Hil-
ton Head
Quarantine to
include Beau-
fort.

Civ. '02, §
1140.

OF SOUTH CAROLINA.

a, to cause the persons on board of any vessel to be
nated.

1527. The Quarantine Officer, Intendant and Ward-
r the Mayor and Aldermen, as the case may be, and in
ort of Charleston the Harbor Commission, whenever
ir judgment the public health shall require, may order
essel at the wharves of either of said ports, or in their
ty, to the quarantine ground or other place of safety,
may require all persons, articles, or things introduced
said ports from such vessels to be seized, returned on
d, or removed to the quarantine ground, or other place.
e master, owner or consignee of the vessel, cannot be
d, or shall refuse or neglect to obey the order of
val, the Quarantine Officer, Intendant and Wardens,
ayor and Aldermen, and in the port of Charleston the
oor Commission, as the case may be, shall have power
use such removal, at the expense of such master, owner,
onsignee, and such vessel or person shall not return to
port without the written permission of the Quarantine
er.

c. 1528. If any vessel arriving at the quarantine
nd, subject to quarantine, shall be bound to some port
h of either of said ports, the Health Officer, after hav-
duly visited and examined her, may permit her to pass
er voyage; but no such vessel shall be brought to anchor
either of said ports, nor shall any of her crew or passen-
s land in or hold any communication with either of said
ts, or any person therefrom.

ec. 1529. The master of every vessel released from quar-
ine and arriving at a wharf in either of said ports shall,
hin twenty-four hours after such release, deliver the
mit of the Quarantine Officer at the office of the Mayor
Intendant, as the case may be.

ec. 1530. Nothing in this Article shall prevent any
sel arriving at quarantine from again going to sea before
aking bulk.

ec. 1531. It shall be the duty of each pilot belonging to
her of the said ports to use his utmost endeavors to hail
ery vessel he shall discover entering the port, and to
errogate the master of such vessel in reference to all mat-
s necessary to enable such pilot to determine whether,

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Pilots to ascertain whether incoming vessels are subject to examination.

Civ. '02, § 1148.

To notify vessels so subject to proceed to quarantine anchorage.

Civ. '02, § 1149.

Duties of pilots in relation to vessels under their charge and subject to quarantine.

Civ. '02, § 1150.

Quarantine Officer to board certain vessels, ascertain their condition, and report to municipal authorities.

Civ. '02, § 1151.

according to the provisions of the preceding Sections, such vessel is subject to quarantine or examination by the Quarantine Officer.

Sec. 1532. If, from the answers obtained to such inquiries, it shall appear that such vessel is subject to quarantine or examination by the Quarantine Officer, according to the preceding Sections, the pilot shall immediately give notice to the master of the vessel that he, his vessel, his cargo, crew, and passengers, are subject to such examination and that he must proceed and anchor said vessel at the quarantine anchorage, there to await the further directions of the Quarantine Officer.

Sec. 1533. It shall be the duty of every pilot, who shall conduct into port a vessel subject to quarantine or examination by the Quarantine Officer:

1. To bring such vessel to anchor within the buoys marking the quarantine anchorage.

2. To prevent any vessel or boat from coming alongside of the vessel under his charge, and to prevent anything on board from being transferred to or thrown into any other vessel or boat.

3. To present to the master of the vessel a printed copy of this Article, when such copy shall have been delivered to him for that purpose.

4. To take care that no violations of this Article be committed by any person, and to report such as shall be committed, as soon as may be, to the Quarantine Officer.

5. To subject himself to such detention and delay, and cleansing and purification, as to his person and clothing, as shall be prescribed by the Quarantine Officer, after having boarded or brought to the quarantine ground any vessel subject to quarantine.

Sec. 1534. It shall be the duty of the Quarantine Officer to board every vessel subject to quarantine or visitation by him immediately on her arrival, between sunrise and sunset; to inquire as to the health of all persons on board, and the condition of the vessel and cargo, by inspection of the bill of health, manifest, log-book, or otherwise; to examine, on oath, as many and such persons on board as he may judge expedient to enable him to determine the period of quarantine and the regulations to which such vessels shall be made

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ect, and report the facts and his conclusions, and specially to report the number of persons sick, and the nature of the disease with which they are afflicted, to the Mayor or Intendant, in writing.

Sec. 1535. It shall be the duty of the Quarantine Officer to reside within or near the quarantine ground; and he shall have the power:

To reside near quarantine grounds powers.

Civ. '02, 1152.

1. To remove from the quarantine anchorage ground any vessel he may deem dangerous to the public health, to any place south or east of the quarantine ground, inside the bar.

2. To cause any vessel under quarantine, when he shall judge it necessary for the purification of the vessel or her cargo, passengers, or crew, or either of them, to discharge the same at the quarantine ground.

3. To cause any such vessel or cargo, bedding, and the clothing of persons on board, to be ventilated, cleansed and purified in such manner, and during such time, as he shall direct; and, if he shall judge necessary to prevent infection or contagion, to destroy any portion of such bedding or clothing; and, with the concurrence of the Mayor or Intendant, any portion of such cargo which may be deemed incapable of purification.

4. To prohibit and prevent all persons arriving in vessels subject to quarantine from leaving quarantine, or removing their goods or baggage therefrom, until fifteen days after the last case of pestilential, contagious, or infectious disease shall have occurred on board, and ten days after her arrival at quarantine, unless sooner discharged by him.

5. To permit the cargo of any vessel under quarantine, or any portion thereof, when he shall judge the same free from infection and contagion, to be conveyed to the landing.

6. To cause all persons under quarantine to be vaccinated, when he deems it necessary for the preservation of the public health.

7. To administer oaths and take affidavits in all examinations prescribed by this Chapter, and in relation to any alleged violation of quarantine law or regulation; such oaths shall have the like validity and effect as oaths administered by a Magistrate.

Sec. 1536. The Quarantine Officer may direct, in writing, any Sheriff or Constable to pursue and apprehend any per-

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May cause
arrest of per-
sons eloping
from quaran-
tine; such
elopement a
misdemeanor.

Civ. '02, §
1153.

son, not discharged, who shall elope from quarantine, who shall violate any quarantine law or regulation, or shall obstruct the Health Officer in the performance of duty, and to deliver him to said officer, to be detained in quarantine until discharged by said officer; but such confinement shall in no case exceed ten days. It shall be the duty of the Sheriff or Constable, so directed, to obey such order.

See Criminal Code for penalty for violation of quarantine laws.

Quarantine
vessels dis-
tinguished.

Civ. '02, §
1154.

Sec. 1537. Every vessel during her quarantine shall be designated by colors to be fixed in a conspicuous part of her main shrouds.

Boats not to
pass through
range of quar-
antined ves-
sels or land
at quarantine
ground.

Civ. '02, §
1155.

Sec. 1538. No vessel or boat shall pass through the range of vessels lying at quarantine, or land at the quarantine grounds, without the permission of the Health Officer.

Lighters not
to unload
quarantined
vessels.

Civ. '02, §
1156.

Sec. 1539. No lighter shall be employed to load or unload vessels at quarantine without permission of the Quarantine Officer, and subject to such restrictions and regulations as he shall impose.

Passengers
to be main-
tained by
master of ves-
sel during
quarantine.

Civ. '02, §
1157.

Sec. 1540. All persons being on board of vessels under quarantine shall be provided for by the master of the vessel in which they shall have arrived; and if the master omit or refuse to provide for them, or they shall have been sent on shore by the Quarantine Officer, they shall be maintained at the expense of such vessel, her owners, consignees, and each and every one of them; and the Quarantine Officer shall not permit such vessel to leave quarantine until such expenses shall have been repaid or secured; and the Quarantine Officer shall have an action against such vessel, her owners, and consignees, and each and every one of them, for such expenses, which shall be a lien on such vessel, as such may be enforced as other liens on vessels.

Criminal
passengers
may be con-
fined on shore,
expense of
maintenance
during quar-
antine to be
defrayed by
vessel.

Civ. '02, §
1158.

Sec. 1541. The Quarantine Officer, upon the application of the master of any vessel under quarantine, may confine in any suitable place on shore any person on board of such vessel charged with having committed an offence punishable by the laws of this State or the United States, and who shall not be secured on board of such vessel; and such confinement may continue during the quarantine of such person, or until he shall be proceeded against in due course of law.

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the expense thereof shall be charged and collected as in the last preceding Section.

Sec. 1542. Any person aggrieved by any decision, order, or direction of the Quarantine Officer, may appeal therefrom to the Governor, Attorney-General, and Comptroller-General, who shall constitute a Board of Appeal; the said Board shall have power to affirm, reverse, or modify the decision, order, or direction appealed from, and the decision of the Board thereon shall be final.

Appeal lies from Health Officer to the Board of Appeal.

Civ. '02, § 1160.

Sec. 1543. An appeal to the Board of Appeal must be made by serving upon the Quarantine Officer a written notice of such appeal, within twelve hours after (Sundays excepted) the appellant receives notice of the order, decision, or direction complained of. Within twelve hours after

Appeal; how made and prosecuted.

Civ. '02, § 1160.

the Quarantine Officer receives such notice (Sundays excepted) he shall make a return, in writing, including the facts on which his order, decision, or direction was founded, to the Governor, who shall immediately call a meeting of the Board of Appeal, and shall be President of said Board; and said appeal shall be heard and decided within twenty-four hours thereafter (Sundays excepted); and, until such decision is made, the order, decision, or direction complained of, except it refer to the detention of a vessel, her cargo, or passengers at quarantine, shall be suspended.

Sec. 1544. Whenever the said Quarantine Officer, in the performance of the duties and in the execution of the powers imposed and conferred upon him by law, shall order or direct the master, owner, or consignee of any vessel under quarantine, to remove such vessel from her anchorage, or

Health Officer may enforce orders; expense to be a lien on vessel.

Civ. '02, § 1161.

to do any act or thing, or comply with any regulation relative to said vessel, or to any person or thing on board thereof, or which shall have been brought to said ports therein, and said master, owner, or consignee shall neglect or refuse to comply with such order or direction, the said Quarantine Officer shall have power to employ such persons and assistants as may be necessary to carry out and enforce such order or direction, and the person so employed shall have a lien on such vessel, her tackle, apparel, and furniture, for their services and expenses.

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See Section 1430, ante, as to supervision of quarantine by the State Board of Health.

Sanitary In-
spectors;
when and by
whom ap-
pointed.

Civ. '02, §
1162.

Duty and
powers of in-
spectors.

Civ. '02, §
1163.

Appropri-
ation to pay
expenses.

Civ. '02, §
1164.

Governor
may, by pro-
clamation, de-
clare place in-
fected, etc.

Civ. '02, §
1165.

When effect
of proclama-
tion to cease;
how time ex-
tended.

Civ. '02, §
1166.

Sec. 1545. The Governor is authorized, upon the recommendation of the Chairman of the State Board of Health, to appoint Sanitary Inspectors whenever contagious or infectious disease shall appear or become epidemic in this State or any other State directly connected with this State by land or water transportation.

Sec. 1546. The duty of such Sanitary Inspectors shall be under the direction and control of the State Board of Health or its proper officers, to inspect railroad cars, vessels or other conveyances, and they are empowered to stop and detain such cars, vessels or other conveyances, and any or all passengers, baggage and freight, when deemed expedient to have such cars, vessels or other conveyances, baggage and freight disinfected or destroyed if necessary to prevent spread of disease. And the said Sanitary Inspectors are hereby constituted officers to administer oaths and to punish all persons violating the sanitary laws of the State or interfering with and hindering them in the discharge of their duties.

Sec. 1547. The expenses for carrying out the provisions of the preceding Section shall be provided for by a contingent fund of three thousand dollars, which shall be administered by the State Board of Health and disbursed on the order of the Chairman of said Board, countersigned by the Governor.

Sec. 1548. The Governor may issue his proclamation declaring any place where there shall be reason to believe a pestilential, contagious or infectious disease exists or may exist to be an infected place within the meaning of Article; and may make such regulations as may be necessary in order to prevent the entrance or spread of Asiatic cholera into or in this State.

Sec. 1549. Such proclamation shall fix the period for which it shall cease to have such effect; but such period, if he judge the public health to require it, may from time to time be extended, and notice of the same shall be published in the newspapers of said port.

Sec. 1550. After such proclamation shall have been issued, all vessels arriving in either of the said ports

h infected place shall, together with their officers, crews, passengers and cargoes, be subject to all the provisions, regulations and penalties of this Article in relation to vessels subject to quarantine; but such quarantine shall not extend beyond the period when such proclamation shall cease to have effect, as provided by the last preceding Section.

Sec. 1551. Whenever the words "Quarantine Officer" occur in this Article, they shall be understood to mean Quarantine Officer or his deputies: *Provided*, That said deputies shall in all cases be graduates of a regular medical school.

Sec. 1552. The officer or officers who may be intrusted with the execution of the quarantine laws are authorized and directed, in case of a violation or attempt to violate any of the said laws, to board, by force of arms, any vessel engaged in such violation or attempt to violate, and to detain her and her crew and passengers.

Sec. 1553. Any vessel which shall be restrained under quarantine laws and shall attempt to violate the same may be fired upon, and detained by force of arms.

Sec. 1554. When the Governor may deem it necessary, he shall, at the expense of the State, hire and employ boats and small craft, and a sufficient number of able men, well armed, to be stationed wherever he may think fit, and to act under his directions, in order to enforce obedience to the laws of this State requiring the performance of quarantine, and also to arm such men, if requisite, with any firearms belonging to this State.

Sec. 1555. The Harbor Commission shall control all quarantine stations and buildings in Charleston Harbor, shall designate and fix the location thereof, and shall make such regulations respecting the same as will secure the thorough and complete enforcement of the quarantine laws of the State, in no way, however, limiting or encroaching upon the powers and duties of the State Board of Health.

Sec. 1556. The following uniform schedule of charges is hereby adopted for quarantine dues at all ports of the State, the amount collected to be expended for the more effective enforcement of quarantine at each port, to wit: For every vessel boarded and inspected, \$3; for every vessel

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Vessels from such infected places to be subject to quarantine.

Civ. '02, 1167.

"Quarantine Officer" mean Quarantine Officer or his deputies who must be physicians.

Civ. '02, 1168.

Quarantine officer as a employ force when.

Civ. '02, 1169.

May be upon vessel violation laws.

Civ. '02, 1170.

Boats and armed men may be employed by the Governor to enforce law

Civ. '02, 1171.

Harbor Commission in Charleston harbor; authority of.

Civ. '02, 1172.

Quarantine charges.

Civ. '02, 1173.

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of 100 tons or less, fumigating and disinfecting, each process, \$10; for every vessel over 100 tons and less than 250 tons, fumigating and disinfecting, each process, \$14; for every vessel over 250 tons and less than 500 tons, fumigating and disinfecting, each process, \$18; for every vessel over 500 tons and less than 750 tons, fumigating and disinfecting, each process, \$22; for every vessel over 750 tons and less than 1,000 tons, fumigating and disinfecting, each process, \$26; for every vessel over 1,000 tons and less than 1,250 tons, fumigating and disinfecting, each process, \$30; for every vessel over 1,250 tons, fumigating and disinfecting, according to tonnage of each process, \$34 to \$68. *Except*, That in every port of the State where the Holt System of Marine Sanitation is used, the following charges shall be enforced, to wit: *Quarantine Fees*—For every schooner or brig, \$8; for every bark or brig over 500 tons, \$10; for every steamship or ship, \$15. *Fumigation and Disinfection Fees*—For every schooner under 500 tons, a sum not exceeding \$50; for every bark or brig over 500 tons, a sum not exceeding \$60; for every steamship or ship under 1,000 tons, a sum not exceeding \$75; for every steamship or ship over 1,000 tons, a sum not exceeding \$100. In all cases the Quarantine Officer will collect the charges against vessels before giving permission to leave quarantine, either by Captain's draft on consignee or in current account, and shall return the same to the Board charged with the administration of the quarantine at such port, who shall be responsible for the disbursement thereof.

TITLE IX. OF PUBLIC INSTRUCTION.

- ARTICLE XXIV.** *Free Public Schools.*
- ARTICLE XXV.** *State University.*
- ARTICLE XXVI.** *The Clemson Agricultural College and the special public powers and duties of the Board of Trustees thereof.*
- ARTICLE XXVII.** *South Carolina Institute for the Education of the Deaf and Dumb and Blind.*

CHAPTER XXIV. Free Public Schools.

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| <p>State Superintendent of Education; election, bond, salary.</p> <p>Duties of.</p> <p>Report to General Assembly.</p> <p>Allowance for clerk hire.</p> <p>State Treasurer to hold any devise or bequest to State for educational purposes.</p> <p>Other duties State Superintendent of Education.</p> <p>Vacancy in his office; how filled.</p> <p>State Board of Education; of whom composed.</p> <p>Meetings of Board; compensation.</p> <p>Advisory Board to Superintendent of Education.</p> <p>General powers State Board of Education.</p> <p>Enrollment of school children.</p> <p>Enrollment in night schools to be counted in apportionment.</p> | <p>Sec.</p> <p>1570. County Superintendent of Education; election, bond, etc.</p> <p>1571. Vacancies in office to be filled by State Board of Education.</p> <p>1572. Duty to visit schools.</p> <p>1573. To attend annual settlement of County Treasurer, and to apportion school funds.</p> <p>1574. Annual report of County Board of Education.</p> <p>1575. Annual report of County Superintendent to the Court.</p> <p>1576. County to furnish office, etc.</p> <p>1577. Report to County Treasurer of claims approved.</p> <p>1578. Register of approved claims to be kept.</p> <p>1579. Trustees to be furnished copies of reports.</p> <p>1580. Official seal of County Superintendent of Education.</p> <p>1581. Additional compensation for.</p> |
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- 1582. County Board of Education, of whom composed, term, etc.
- 1583. Duties of.
- 1584. What must be taught in schools.
- 1585. Physiology and hygiene to be taught in public schools.
- 1586. Books.
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- 1588. Three mill and poll tax, duties in reference to.
- 1589. To be advisory board to County Superintendent.
- 1590. Meetings and duties of County Board of Education.
- 1591. To divide Counties into School Districts, size, etc.
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- 1593. School Trustees in each district.
- 1594. School Districts made tax districts.
- 1595. How special taxes may be levied.
- 1596. School Districts may issue bonds; election.
- 1597. How election shall be held.
- 1598. Ballots.
- 1599. How bonds shall be sold; special tax levy.
- 1600. How bonds shall be signed.
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- 1602. How money shall be deposited.
- 1603. Special school districts in adjoining Counties.
- 1604. School bonds exempt from taxation.
- 1605. School Trustees; how appointed, terms, etc.
- 1606. Duties of.
- 1607. Meetings of.
- 1608. Power to sell school property.
- 1609. Transfer of pupils; how made.
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- 1612. All school warrants to be approved by the County Superintendent of Education.
- 1613. Trustees not to receive pay as teachers.
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- 1615. Fund for school buildings.
- 1616. Additional funds.
- 1617. Consolidated districts to have preference.

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- 1618. Must comply with plan State Board.
- 1619. Approval of County Board.
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- 1621. Tax returns to contain number and name of School district.
- 1622. Auditor to report amount taxes to County Superintendent.
- 1623. Disposition of poll tax.
- 1624. County Treasurer to who paid poll tax.
- 1625. County Treasurer to monthly to County Superintendent of Education.
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- 1627. Annual report County Treasurer to County Superintendent of Education.
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- 1630. Trustees to regulate term, etc.
- 1631. Age of school attendance.
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- 1633. Separate school for each district.
- 1634. School year.
- 1635. Minimum term.
- 1636. Comptroller-General to make deficiency.
- 1637. Apportionment of funds to Dispensary.
- 1638. How made.
- 1639. Printing for schools.
- 1640. Special or Graded School Districts.
- 1641. County Boards of Education to provide books at cost.
- 1642. School Trustees may purchase books for certain pupils.
- 1643. School book depositories.
- 1644. Fund for free libraries.
- 1645. How money to be paid.
- 1646. Selection of books.
- 1647. Preservation of books.
- 1648. Exchange of libraries.
- 1649. Appropriation.
- 1650. Number of schools entitled to benefit.
- 1651. Enlargement of libraries.
- 1652. Unlawful to use in schools books disapproved by State Board of Education.

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School claims; how proved and paid.

Officers authorized to borrow money to pay school claims. Reserve fund authorized.

Fund; how used and maintained.

Arbor Day to be observed.

Calhoun's birthday to be observed.

Officers and Trustees to report to State Superintendent of Education.

County Superintendent of Education in Charleston is charged only with schools outside of Charleston.

City of Charleston divided into School Districts.

Powers and duties of School Board for City of Charleston.

Provision for higher education in Charleston.

Beneficiaries from Charleston County in State University.

Retirement fund for teachers in Charleston.

Sec.

1666. Trustees of such fund; duties.

1667-8. What teachers may be beneficiaries.

1669. Provision if fund is insufficient.

1670. Disposition of surplus school funds in Charleston County.

1671. How surplus to be ascertained.

1672. For what purpose used.

1673. High Schools may be established.

1674. Election to be held.

1675. High School District may vote a tax.

1676. Any High School already established may claim privileges.

1677. Classification of High Schools.

1678. Who shall classify.

1679. State Board shall constitute High School Board; rules.

1680. How funds shall be paid out.

1681. Each district may receive gifts; may issue bonds.

1682. Appropriation.

1683. Limit of time.

Section 1557. The State Superintendent of Education shall be elected at each general election, in the same manner as other State officers, and shall enter upon the duties of his office at the time prescribed by law. Before entering upon the duties of his office, he shall give bond, for the use of the State of South Carolina, in the penal sum of five thousand (\$5,000) dollars, with good and sufficient sureties, to be approved by the Governor, conditioned for the faithful and impartial performance of the duties of his office; and he shall also, at the time of giving bond, take and subscribe the oath prescribed in Section 26 of Article III of the Constitution of the State, which shall be endorsed upon the back of said bond; and the bond shall be filed with the Secretary of State, and by him recorded, and when so recorded, shall be filed with the State Treasurer. The State Superintendent of Education shall receive as compensation for his services the sum of nineteen hundred dollars per annum, payable monthly out of the State Treasury; and his traveling expenses, not exceeding three hundred dollars, shall be paid out of the State Treasury upon duly itemized vouchers rendered by him.

State Superintendent of Education; his election; bond; salary.

Civ. '02, § 1174.

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Duties of.

Civ. '02, §
1175.

Sec. 1558. He shall have general supervision over all the public school funds, and it shall be his duty to visit every County in the State as often as practicable for the purpose of inspecting the schools, awakening an interest favorable to the cause of education, and diffusing as widely as possible, by public addresses and personal communications with school officers, teachers and parents, a knowledge of existing defects and of desirable improvements in the government and instruction of the said schools. He shall secure, by and with the advice of the State Board of Education, uniformity in the use of text books throughout the free public schools of the State, and shall forbid the use of sectarian or partisan books and instruction in said schools. He shall prepare and transmit to the several County Superintendents of Education, school registers, blank certificates, reports and such other suitable blanks, forms and printed instructions as may be necessary to aid school officers and teachers in making their reports and carrying into full effect the various provisions of the school laws of this State; and shall cause the law relating to the free public schools, with such rules, regulations, forms and instructions as shall be legally prescribed, to be printed, together with a suitable index, in pamphlet form, at the expense of the State; and he shall cause copies of the same to be transmitted to the several County Superintendents of Education for distribution. He shall collect in his office such school books, apparatuses, maps and charts as can be obtained. He may certify copies of all papers filed in his office, and such certified copies shall be competent evidence thereof.

To report to
General Assembly.Civ. '02, §
1176.

Sec. 1559. He shall make a report, through the Governor, to the General Assembly at each regular session thereof, showing: 1st. The whole number of pupils registered in and the number enrolled as hereinafter defined in the free common schools of this State during the year ending the thirtieth day of the last preceding June, and the number in each County registered in and the number enrolled as hereinafter defined during the same period. 2d. The number of whites and the number of colored, of each sex, attending the said schools. 3d. The number of free schools in the State. 4th. The number of pupils studying each of the branches taught. 5th. The average wages paid to teachers of each

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and to the principals of schools and departments in schools. 6th. The number of school houses erected during the year, and the location, material and cost thereof. The number previously erected, and the material of construction, and their condition and value, and the acreage with the grounds enclosed. 8th. The Counties in which Teachers' Institutes were held, and the number attending the Institutes in each County. 9th. Such other statistical information as he may deem important, together with such plans as he may have matured and the State Board of Education may have recommended for the maintenance and improvement of the school fund and for the perfect organization and efficiency of the free public schools. All State institutions of higher learning shall submit an annual report on or before the first day of September of each year to the State Superintendent of Education embracing a detailed account of the operations of such institutions, including the expenditure of the public moneys during the current scholastic year, which reports the State Superintendent of Education shall include in his annual report to the Legislature. All Acts or parts of Acts requiring annual reports to be made to other authorities are hereby repealed.

§ 1560. The sum of nine hundred dollars shall be appropriated to the Superintendent of Education for the purpose of defraying the expenses of clerk hire in his office.

Salary of clerk.

Civ. '02, § 1177.

§ 1561. The State Treasurer shall take and hold in trust for the State any grant or devise of lands and any gift or bequest of money or other personal property made to him for educational purposes, all gifts to the State where the purpose is not designated, all escheated property, the net proceeds or funds of all estates or copartnerships in the hands of the Courts of the State where there have been no claims for the same within the last seventy years, and other moneys coming into the Treasury of the State by reason of the twelfth Section of an Act entitled "An Act to provide a mode of distribution of the moneys as direct tax from the lands of this State by the United States in trust to the people of South Carolina," approved the twenty-fourth day of December in the year eighteen hundred and ninety-one, together with such other means as the General Assembly

State Treasurer to hold any devise or bequest to the State for educational purposes, etc.

Civ. '02, § 1178.

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may provide. The State Treasurer shall from time to time invest in bonds of this State or of the United States any money in the name of the State, as a permanent State fund, and shall pay out the income derived therefrom to the County or the Counties of the State as the same may be apportioned among said Counties by the State Board of Education: *Provided*, That no disposition shall be made of any property, grant, devise, gift, or bequest, inconsistent with the purposes, conditions or terms thereof. For the faithful management of all property so received by the State Treasurer, he shall be responsible upon his bond to the State as for other funds received by him in his official capacity. *Provided, however*, That the Trustees of any school district of this State may take and hold in trust for their respective school district any property granted, devised, or bequeathed to such school district, and apply the proceeds to the interest of the schools of their district in such manner as in their judgment seems most conducive to the welfare of the schools when not otherwise directed by the terms of the grant, devise, gift or bequest: *And provided, further*, That before said Trustees shall assume control of any property granted, devise, gift or bequest they shall give a bond, to be approved by the County Board of Education of the County in which such grant, devise, gift or bequest is made, conditioning them for the faithful discharge of the trust reposed in them in relation to said property, which bond shall be deposited with the Clerk of the Court of said County. The said Trustees shall hereby invested with the care and custody of all school houses or other school property belonging to their respective districts, with full power to control the same in such manner as they may think will best subserve the interests of the free public schools and the cause of education.

other duties.

1914, '02, § 9.

Sec. 1562. The State Superintendent of Education shall discharge such other duties as may be provided by law. He shall deliver to his successor, within ten days after the expiration of his term of office, all books, papers, documents and other property belonging to his office.

Vacancy:
to be filled.

1914, '02, § 9.

Sec. 1563. In case a vacancy occurs in the office of Superintendent of Education, from any cause, such vacancy shall be filled by the Governor, by and with the advice and consent of the Senate, and the persons so appointed shall hold office until the next regular session of the Legislature.

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ify within fifteen days from the date of such appointment, or else the office shall be deemed vacant. If the vacancy occurs during the recess of the Senate, the Governor shall fill the same by appointment until the Senate can act thereon.

Sec. 1564. The Governor, the Superintendent of Education and seven persons, one from each Congressional District, to be appointed by the Governor, who shall hold office for four years, and until their successors may be appointed, or as soon removed by the Governor, shall constitute the State Board of Education. Of this Board the Governor shall be *ex officio* Chairman, and the State Superintendent of Education shall be Secretary of the Board. The Secretary shall be custodian of its records, papers and effects, and shall keep minutes of its proceedings; and said records, papers and minutes shall be kept in the office of the State Superintendent of Education and shall be open to inspection by the public.

State Board
of Education.Civ. '02, §
1181.

Sec. 1565. The said Board shall meet on the call of its Chairman, or upon the request of a majority of its members, in the office of the State Superintendent of Education, or at any other place as may be designated in the call. A majority of the Board shall constitute a quorum for transacting business. The official seal of the State Superintendent of Education shall be used for the authentication of the acts of the State Board. The members of the State Board of Education appointed by the Governor shall receive as compensation the same mileage and per diem as is provided for members of the General Assembly, not exceeding twenty dollars in any one year.

Meetings of
Board; com-
pensation.Civ. '02, §
1182.

Sec. 1566. The State Board of Education shall constitute an advisory body, with whom the State Superintendent of Education shall have the right to consult when he is in doubt as to his official duty; and shall have power to review and appeal all decisions of the County Boards of Education, hereinafter provided for. Appeals to the State Board of Education must be made through the County Boards of Education, in writing, and must distinctly set forth the question of law as well as the facts of the case upon which appeal is taken, and the decision of the State Board shall be final upon the matter at issue.

Advisory
Board to Su-
perintendent
of Education,
and powers of
in cases of
appeal.Civ. '02, §
1183.

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567. The State Board of Education shall
1st. To adopt rules and regulations not inconsistent with the laws of the State for its own government and management of the free public schools.

rel. Williams v. Hiers, 51 S. C., 388; 29 S. E., 80.

2d. To prescribe and enforce rules for the examination

3d. To prescribe a standard of proficiency for the State Boards of Education which will entitle persons who are graduated by such Boards to certificates as teachers. 4d. To prescribe and enforce the course of study in the free public schools.

5th. To prescribe and to enforce, as far as practicable, the use of a uniform series of text-books in the free public schools of the State; to enter into an agreement with the publishers of the books prescribed, fixing the time of publication and the price above which the books shall not be sold during the period of prescription, and a rate of interest not less than which the books shall be furnished to the school dealers in this State; to require the publishers, by resolution of the Board, to establish in each County one or more depositories of their books within the State, at such places as the Board may designate, and where the books may be obtained without delay; and to exact from each publisher a bond in the sum of not more than five thousand dollars, conditioned for the faithful performance of the contract, and with a penalty of twenty-five dollars for violation of the agreement, the form and execution of which to be approved by the Attorney-General; and the said agreement and bond shall be deposited with the State Treasurer, all recoveries thereon to go into the State Treasury for school purposes: *Provided*, That the State Board of Education shall not have power, without the approval of the General Assembly of the State, to change the same within five (5) years from the date of its adoption; except for violation of the agreement entered into with the State Board of Education, for which the agreement may be changed by the said Board; and it shall be a misdemeanor for any teacher drawing public school money to use any book not prescribed by the State Board of Education without the consent, in writing, of said Board. 6th. To grant teachers' certificates and to revoke them in case of immoral or unprofessional conduct, profanity or evil

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ness for teaching. 7th. To review on appeal an order making a County certificate: *Provided*, That no certificate required of examination or proficiency from any applicant for teachers in city schools of Charleston having diplomas from the Memminger Normal School in the city of Charleston, whether regular or extra teachers, but they shall be alone subjected to such examinations and conditions as may be required by the Board of Commissioners of the city public schools of Charleston. 8th. To award scholarships created by the General Assembly in the institutions of learning supported in whole or in part by the State.

Sec. 1568. No child shall be counted in the enrollment more than once, nor in more than one school district in any school year, and the school officer charged with the duty of enrollment wilfully violating this provision shall be guilty of a misdemeanor. The teacher or principal of every school shall keep and furnish annually to the Trustees of the school district a list of all pupils that have attended the school during the preceding scholastic year, showing the names of the pupils, their respective places of residence and the number of days each pupil has attended, which list shall be certified to the County Board of Education by said Trustees on or before the 1st day of August in every year.

Sec. 1569. Whenever any children of school age, as provided by law, shall attend a public night school for twenty days in any scholastic year, they shall be deemed enrolled and their names shall be used by the County Boards of Education in making apportionments just as if they had attended day school ten days, as provided by law: *Provided*, that the said night schools shall be taught by teachers qualified by law to teach in the public schools of the State: *and Provided, also*, That the course of study shall be the course approved by the State Board of Education for use in the public schools of the State.

The same children shall not be counted twice in making the enrollment of a school district.

Sec. 1570. There shall be elected by the qualified electors of the County a County Superintendent of Education for each County, who shall hold his office for the term of four years and until his successor is elected and qualified, except the Counties of Anderson, Aiken, Bamberg, Beaufort,

Enrollment defined.

Civ. '02, § 1185.

Enrollment in night schools to be counted in apportionment.

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County Superintendent of Education.

Civ. '02, § 1186; 1903, § 1187; 1908, § 1350; 1909, § 1351; 1910, § 1352; 1911, § 1353; 1912, § 1354.

Calhoun, Darlington, Fairfield, Hampton, Laurens, Marion, Pickens, Sumter, Union, Williamsburg and York, which Counties his term of office shall be two years, shall, before being commissioned and entering upon the duties of his office, give bond to the State, for the use of the County in which he is elected, for educational purposes, the penal sum of one thousand dollars, with good and sufficient sureties, to be approved by the County Board of Commissioners, conditioned for the faithful and immediate discharge of the duties of his office; and shall take and subscribe the oath of office prescribed in Section 26, Article IV of the Constitution of this State, which he shall file in the office of the Secretary of State. When commissioned, he shall immediately enter upon the discharge of his duties. His failure to qualify within thirty days after notice of election shall create a vacancy: *Provided*, The bond of the Superintendent of Education for Saluda County, who has a large reserve school fund, shall be five thousand dollars.

Vacancies.

Civ. '02, § 1187.

Sec. 1571. The State Board of Education shall fill all vacancies in the office of County Superintendent of Education for the unexpired term.

Duty to visit schools, etc.

Civ. '02, § 1188.

Sec. 1572. It shall be the duty of each County Superintendent of Education to visit the schools in his County at least once in each year, and oftener if practicable, to note the course and method of instruction and the books taught, and to give such recommendation in the art of teaching and the method thereof in each school as shall be necessary, so that uniformity in the course of studies and method of instruction employed shall be secured as far as practicable in the schools of the several grades, respectively. He shall acquaint himself as far as practicable with the character and condition of each school, noting any deficiencies that may exist, either in the government of the school, the classification of its pupils or the method of instruction employed in the several branches, and shall make such suggestions in private to the teachers as to him shall seem necessary to the good order of the school and the proper education of the pupils. He shall note the character and condition of the school houses, the sufficiency or insufficiency of the furniture, and shall make such suggestions to the Boards of Trustees as in his opinion shall seem convenient.

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comfort and progress of the several schools. It shall be the duty of each County Superintendent of Education to encourage the teachers in all proper efforts to improve themselves in their profession. For this purpose he shall encourage the formation of associations of teachers for common improvement and conduct teachers' institutes. He shall attend the meetings of such associations and give such advice and instruction in regard to their conduct and management as his judgment will contribute to their greater efficiency.

1573. The County Superintendent of Education shall attend the annual settlement of the County Treasurer with the Comptroller-General. Within ten days after the County Treasurer makes his monthly report to the County Superintendent of Education, showing the amount of money

Shall attend
annual settle-
ment of Coun-
ty Treasurer.

Civ. '02, §
1189.

distributed by him since his last monthly report, it shall be the duty of the County Superintendent of Education to apportion the money arising from a tax on property as shown by the Treasurer's report among the school districts of the County, and to certify such apportionments to the County Treasurer, together with the poll tax belonging to each district as shown by said report; and it shall be the duty of the County Treasurer to enter upon his book to the credit of each school district the amount due each district according to such certificate of apportionment, and the County Treasurer shall pay out the money belonging to the respective districts, upon the school warrants of such districts, duly signed and countersigned by the school authorities for that scholastic year in the order of their presentation.

County Su-
perintendents
of Education
to apportion
school funds
monthly
among the
school dis-
tricts.

Provided, That there be no outstanding claims of the previous scholastic year; and the Comptroller-General shall receive the warrants thus paid as proper vouchers in the books of the County Treasurer.

Criminal Code for penalty for violation of this Section.

1574. The annual report of the County Board of Education shall contain the complete statistics of all schools in his County supported in whole or in part from the public funds, as may be required of him by the State Superintendent of Education.

Reports of;
what to con-
tain.

Civ. '02, §
1190.

1575. The County Superintendent of Education shall make an annual report of all claims filed, audited and

allowed and ordered paid by him during each fiscal year. The presiding Judge at the third term of the Court, at the General Sessions for his County, which shall be held on the first day of January in each year, to be submitted to the Judge to the Grand Jury for their examination. After examination, the Grand Jury shall report thereon to the presiding Judge any matter growing out of or pertaining to the said annual report which to them may seem worthy the attention of the Court. The said report shall thereupon be filed by the Clerk of said Court, and kept as papers of the Court, for inspection by any citizen desirous of examining the same.

Sec. 1576. The County Board of Commissioners and the County are authorized and required to furnish the County Board of Education of their County with a comfortable and convenient office and suitable office furniture, and to equip said office with fuel, lights, stationery, postage and other incidentals as are necessary to the proper transaction of the legitimate business of his office.

Sec. 1577. It shall be the duty of the County Superintendent of Education, on or before the fifteenth day of January in each year, to report to the County Treasurer, by school districts, all school claims approved by him for the school year last preceding, and the County Treasurer shall thereupon close the school accounts for that year, carrying over the balance to the credit of each school district of the following fiscal year.

Sec. 1578. The County Superintendent of Education shall keep a register of all claims approved by him, and such other matters as the State Superintendent of Education shall require of him, and in the form prescribed by the State Superintendent.

Sec. 1579. The County Superintendent of Education shall furnish the School Trustees of his County with copies of the reports made to him by the County Auditor and County Treasurer as to the persons listed and paying taxes, and shall aid the Trustees in making all proper collections.

Sec. 1580. The County Superintendents of Education shall keep in their office a die, in a circular form, the centre of which shall be engraved, in capital letters,

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and "seal," and on the circumference the proper words indicating the office, which shall be regarded as the seal of office, and which the County Superintendent of Education shall be required to impress upon all papers issued from office, and affix his name to such paper. And it shall be the duty of the County Board of Commissioners in each county to furnish the County Superintendent of Education with their respective Counties with such seal.

It is not necessary that claims approved by him be also under his official seal.—State v. Morton, 51 S. C., 323; 28 S. E., 945.

Sec. 1581. In Abbeville, Marlboro, Chester, Lexington, and York Counties they shall receive annually, in addition to the salaries mentioned in the last Section, one hundred dollars, and in Laurens County, fifty dollars, for traveling expenses; and in every other County of the State they shall receive annually in addition to their salaries such amount as may be necessary to pay the actual expenses incurred by them in attending meetings called for the purpose of advancing the educational interests, and for the purpose of visiting schools in other Counties in order to become familiar with their management and mode of teaching: *Provided*, that no such account shall be approved in favor of any County Superintendent of Education until such Superintendent of Education shall have furnished the County Board of Education with an itemized statement, under oath, of the expenses incurred: *And provided, further*, That in no case shall the expenses exceed one hundred dollars, to be paid on the warrant of the County Board of Education. His claim for services and expenses shall be presented in the form of an account against the County Board of Education, and shall be verified by affidavit to the effect that said account is just and true; that the service therein named was honestly and faithfully rendered, and that the sum therein claimed is rightfully due and remains unpaid. When said account shall have been duly audited and approved by the County Board of Education, it shall be filed with the County Treasurer, who shall pay the same ratably out of the funds apportioned to the several school districts in proportion to the average number of children attending the free public schools in each school district.

Salaries of
County Super-
intendents of
Education
fixed.

Civ. '02, §
1198.

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The Act of 1890, Section 1197, held not to repeal Section 1057 Revised Statutes of 1893, contained in this Section 1198.—*Houser v. Hamburg Co.*, 59 S. C., 265.

County Board
Education,
whom com-
posed, etc.

Civ. '02, §
29.

Sec. 1582. There shall be a County Board of Education in each County, composed of three members, one of whom shall be the County Superintendent of Education, and the other two shall be appointed by the State Board of Education at its regular meeting in April, 1897, and every two years thereafter, who shall hold their office for a term of two years from the time of their appointment and until their successors shall be appointed and qualified, unless sooner removed by the State Board of Education.

Duties of
County Board
Education.

Civ. '02, §
30;
1903;
IV, 1084;
X X V,
1908;
V, 1151;
XXVI,
1910;
VI, 740.

Sec. 1583. The County Board of Education shall examine all candidates for the position of teacher, and give to each person found qualified a certificate setting forth the branches of learning he or she may be capable of teaching, and the percentages attained in each branch; said certificate to be valid for a term of two years, unless sooner renewed, and it may be renewed with or without examinations, at the discretion of the Board, all of which shall be done under such regulations as the State Board of Education may prescribe. No teacher shall be employed in any of the public schools without a certificate from the County Board of Education or the State Board of Education: *Provided*, That no examination as to qualification shall be made in the case of any applicant who produces a full diploma from any chartered college or university of this State, or from the Clemson Normal School of Charleston, and furnishes satisfactory evidence of good moral character: *Provided, further*, That the State Board of Education shall examine the curriculum standing, faculty and equipment of the institution, and see that it is doing real college work, before certificates may be issued on its diplomas. The two members of the board appointed by the State Board of Education shall receive for the services rendered by them compensation at the rate of three dollars per diem for not exceeding seven days, except in the Counties of Barnwell, Chester, York and Hampton, where the number of days may be ten, if so much be necessary, in each year, and mileage at five cents for each mile of necessary travel, the same to be paid by the County Board of Commissioners out of the ordinary County funds.

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1584. It shall be the duty of the County Board of Education and the Boards of Trustees hereinafter provided to see that in every school under their care there shall be taught, as far as practicable, orthography, reading, writing, arithmetic, geography, English grammar, the elements of agriculture, history of the United States and this State, principles of the Constitution of the United States and this State, morals and good behavior, algebra, physiology and hygiene, and especially as to the effects of alcoholic drinks and narcotics upon the human system, English literature, and such other branches as the State Board may from time to time direct.

What shall be taught.

Civ. '02, § 1201.

1585. The nature of alcoholic drinks and narcotics shall be given special instruction as to their effect upon the human system, in connection with the several divisions of the subject of Physiology and Hygiene, shall be included in the list of studies of study taught in common or public schools in the State of South Carolina, and shall be studied and taught as thoroughly and in the same manner as other like required studies are in said schools, by the use of text-books in the case of pupils where other branches are thus studied in the schools, and orally in the case of pupils unable to read. It shall be taught by all teachers and studied by all pupils in all said schools supported wholly or in part by public money.

Physiology and hygiene to be taught in the public schools.

1908, XXV, 1054.

1586. The text-books used for the instruction required to be given by the preceding Section in primary and intermediate grades, shall give at least one-fourth of the space to the consideration of the nature and effects of alcoholic drinks and narcotics, and the books used in the highest grade of graded schools shall contain at least twenty pages of matter relating to this matter.

Books.

1587. It shall be the duty of the proper officers in charge of any school described in the foregoing Section to enforce the provisions of the last two Sections; and any teacher, officer, school director, committee, superintendent or other person who shall refuse or neglect to comply with the requirements of the last two Sections, or shall neglect or fail to make proper provisions for the instruction required and in the manner specified by Section 1585, for all pupils in

Penalty.

CIVIL CODE

ry school under his jurisdiction, s
office and the vacancy filled as in othe
The County Board of Commissioners
es of this State, or such officer or officer
the same or similar powers or duti
l tax of three mills on the dollar upon
rty in their respective Counties, wh
ted at the same time and by the same
axes for the same year, and shall be
easury of the respective Counties, and
July of each year, or as soon as pra
e said fund shall be apportioned by
is respectively among the school dist
ve Counties in proportion to the nu
d in the public schools of such school d
County Boards shall ascertain the am
lected in and for each school district
unties, and shall notify the County T
es of each school district of the amount
as of the amount of the aforesaid func
n to each school district.

funds of each school district shall be
ended by the Board of Trustees for
ne school district, according to the ju
of Trustees, on their warrant appr
uperintendent of Education. For the
tionment pupils shall not be deemed
attendance of at least ten school days
scholastic year.

not issue to compel approval of warrant where
nsufficient to pay it.—*State ex rel. Williams v.*
E., 89; *State ex rel. Bryson v. Daniel*, 52 B. C.
wer of the County Superintendent is also discreti
ore is not the proper remedy. The remedy is giv
Hiers, *supra*. See Constitution of 1895, Article

The County Board of Education shall
sory body with whom the County S
ducation shall have the right to consu
t as to his official duty, and also a trib
any matter of local controversy in ref
ion or administration of the school la
summon witnesses and take testimony

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and when they have made a decision said decision shall stand upon the parties to the controversy: *Provided*, neither of the parties shall have the right to appeal to State Board of Education, and said appeal shall be through the County Board of Education, in writing, shall distinctly set forth the question in dispute, the opinion of the County Board and the testimony as agreed upon by the parties to the controversy, or, if they fail to do so, upon the testimony as reported by the County Board.

Powers of in-
crease of ap-
peal.

See ref. Williams v. Hiers, 51 S. C., 388; 29 S. E., 89.

1590. The County Board of Education shall meet for the purpose of examining applicants for teachers' certificates, and the transaction of other business, at least twice a year, at such places and at such times as the State Board of Education shall appoint. The County Superintendent shall be Chairman and Clerk of the Board, and shall keep a record of their proceedings, and register of the name, sex, color, residence and date of certificate of each person to whom a certificate is issued, and in case the certificate be cancelled shall make a proper entry of the same. The Board shall have power to revoke any certificate issued by them, for immoral or improper conduct, or for unfitness for teaching. The Board shall hold as many additional meetings during the year as the interest of the free public schools of the County may require, subject to regulations prescribed by the State Board of Education.

Meetings of
and duties of.
Civ. '02, §
1204.

1591. The County Boards of Education shall divide the Counties into convenient school districts, as compact and as practicable, having regard to natural boundaries, and not to exceed forty-nine nor be less than nine square miles in area, and shall alter the lines thereof, and create additional school districts from time to time as the interests of the schools may, in their judgment, demand: *Provided*, no new school district shall be erected by said County Board of Education, except upon the petition of at least one-third of the qualified electors embraced within the limits of such proposed school district: *Provided, further*, That no school district shall be consolidated except upon a petition of at least one-third of the qualified voters of the school district proposed to be consolidated: *Provided, further*, whenever territory embraced in two or more Counties is

Counties to
be divided into
school dis-
tricts; by
whom, size of,
etc.

Civ. '02, §
1205.

posed to be formed into one school district, to be formed by the joint action of the Board of the respective Counties as herein provided. Division of school districts in a County: *Provided*, that Counties of ten thousand inhabitants and over, the area of area shall not apply: *Provided, further*, That no school district laid out under this Section shall include any lands or towns already organized into special schools, in which graded school buildings have been erected by the issue of bonds, or by special taxation, or by any other means. The territory included in said school district shall pay its just proportion of any tax that may be levied for the purpose of such bonds or support the public schools therein. The present division of the Counties into school districts shall remain until changed by the County Boards of Education.

County Boards of Education are authorized and empowered to make contracts for the purpose of dividing the Counties into proper school districts, and to provide for the payment of the expenses thereof out of the funds of the County. Every school district now existing, or to be hereafter organized in pursuance of this Section, shall be a body politic and corporate, by the name of School District No. . . . (such number as may be designated by the County Board of Education), of the County (the name of the County in which the district is situated), the State of South Carolina; and in that name to sue and be sued, and be capable of contracting and being contracted with to the extent of their school property holding such real and personal estate as it may have in possession of, by will or otherwise, or as is authorized by law to be purchased, all of which shall be used exclusively for school purposes.

For authority of Trustees, see *State v. Bacon*, 31 S. C., 120; and School District not necessary party to suit on County Treasurer's warrant appropriating school funds.—*Alken County v. Murray*, 35 S. C., 1054.

§. 1592. Any school district formed of parts of two or more Counties under the provisions of this Section shall be dissolved in the same manner as that by which the same have been formed, as above provided.

Sec. 1593. Each school district shall be under the management and control of the Board of Trustees hereinafter provided for, subject to the supervision of the County Board of Education.

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Board of
Trustees.Civ. '02, §
1206; 1806,
XXII, 162.

Sec. 1594. The school districts of the several Counties of the State are hereby made and declared to be the divisions of the Counties for taxation for all school purposes.

School dis-
tricts made
tax districts.Civ. '02, §
1207.

Sec. 1595. The voters or electors of any school district, who return real or personal property for taxation, are authorized to levy and collect an annual tax, to supplement

How school
districts may
levy special
school tax.

any special or other constitutional or other tax for like purposes, in the following manner: Upon the written petition or request of at least one-third of the resident electors and a like proportion of the resident freeholders

Civ. '02, §
1208; 1903,
XXIV, 64;
1906, XXV,
111; 1907,
XXV, 631;
1910, XXVI,
742.

of the age of twenty-one years, being filed with the County Board of Education, asking for the same and stating the rate of the tax levy proposed, which shall not exceed eight mills, the said County Board of Education shall order the Board of Trustees of said school district to hold an election at some place within the district, after giving notice of the time and place thereof for at least two weeks in some newspaper published within the County, and by posting notice thereof in at least three public places within such school district, for such length of time, unless there be no newspaper published within the County, in which event the posting of the notices as above shall suffice; at which said election only such electors as return real or personal property for taxation, and who exhibit their tax receipts and registration certificates as required in general elections, shall be allowed to vote. At the said election the Board of Trustees shall act as managers, and the election shall be conducted as is provided by law for the conduct of general elections. At said election each elector favoring the proposed levy shall cast a ballot containing the word "Yes," printed or written thereon, and each elector opposed to said levy shall cast a ballot containing the word "No," printed or written thereon. Within ten days after such election, if the majority of those voting shall vote for such levy, the Board of Trustees shall furnish the County Auditor with a statement of the amount so levied and the Auditor shall enter the same in the tax duplicates, and he shall

How col-
lected and
paid.

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annually, each year thereafter, enter said amount tax duplicates until the same is increased, decreased or repealed by said taxpayers, at an election called for that purpose, and he is notified that the same has been increased or decreased or repealed; and if increased or decreased shall annually enter it as before; which election shall be called and notice given in the same way and manner herein provided for the calling of meetings to make a levy and the giving of the notice that it has been increased and the County Treasurer shall collect the same amount of County and State taxes: *Provided*, That any tax so levied may be levied, increased, decreased or repealed after the 1st of January in any fiscal year, shall not take effect until the 1st of the succeeding fiscal year. Such levy shall be a lien on the property in such school district, which shall be subject to sale in case of default of payment. Said tax so collected shall be paid out by the County Treasurer upon warrants issued by the Board of Trustees, countersigned by the Superintendent of Education: *Provided*, That any amount of such levy remaining in the hands of the County Treasurer at the expiration of any fiscal year shall be paid out of the school funds of the district. Each taxpayer, when he pays any tax for school purposes voted under the provisions of this Section, shall have the right to designate to which school in said school district he wishes the money paid by him to go; and the Treasurer shall keep a note of such designation, and the money be applied as thus designated. If no designation is made by the taxpayer at the time of such payment, the money shall be expended as other moneys in such district: *Provided*, That nothing contained herein shall be construed to change the manner provided by law for the collection and paying out of taxes in any school district now established by any Act of the General Assembly and organized thereunder.

Proceedings to levy tax; taxpayer participating estopped to deny validity, etc.—*Martin v. School District of Laurens*, 57 S. C., 123; 517.

School districts may issue bonds.

1907, XXV, 523; 1909, XXVI, 89.

Sec. 1596. The trustees of any public school district of the State of South Carolina are hereby authorized and empowered to issue and sell coupon bonds of the said district, payable to bearer, in such denomination

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amount as they may deem necessary, not to exceed four per cent. of the assessed valuation of the property of such school district for taxation, and bearing a rate of interest not exceeding six per cent. per annum, payable annually or semi-annually, and at such times as they may deem best: *Provided*, That the question of issuing the bonds authorized in this Section shall be first submitted to the qualified voters of such school district at an election to be held upon the presentation of a petition or request of at least one-third of the resident electors and a like proportion of the resident freeholders of the age of twenty-one years, to determine whether such bonds shall be issued or not, as herein provided: *Provided, further*, That before any election is held hereunder it shall be the duty of the trustees of the school district to cause a survey of said school district made by some competent surveyor and a plat thereof made and filed in the office of the Clerk of Court: *Provided, further*, That the maximum percentage of assessed valuation as fixed above shall not apply to Rosemary School District in the County of Georgetown, but that in said school district the maximum percentage of assessed valuation of property shall be not more than four per cent.

Election to
authorize
bonds.

Sec. 1597. For the purpose of determining the issue of bonds authorized in Section 1596, such Trustees of school district shall order an election to be held at such place in such school district as may be designated by such Trustees of such school district on the question of whether such bonds shall be issued or not, in which election only qualified voters residing in such school district shall be allowed to vote, and such Trustees shall give notice of such election at least ten days in a newspaper published in such district, or by posting such notice in three public places in such school district; shall designate the time and place and appoint the managers of such election, and receive the returns of the managers and declare the results.

How elec-
tion shall be
held.

Sec. 1598. The ballot cast must have written or printed thereon the words "For Bonds," or "Against Bonds."

Ballots.

Sec. 1599. If a majority of the votes cast at such election shall be for the issuing of bonds, such Trustees shall issue such bonds, which shall run not longer than twenty years from date of issue thereof, which shall be sold by

How bonds
shall be sold;
special tax
levy.

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such Trustees at not less than par, and the proceeds which shall be used by such Trustees for the purpose of erecting buildings, and for equipment for maintenance of public schools in such School district, or for paying the indebtedness of such School District; and such bonds and coupons of same shall constitute a lien upon the property of such school district; it shall be the duty of the County officers, charged with the assessment and collection of taxes, to levy and collect annually from all the property, real and personal, within the limits of such school district, a sum sufficient to pay the interest on such bonds and also a sum sufficient to provide a sinking fund for the payment of such bonds when due, and the coupons thereon shall be received for school taxes upon property within the school district.

How bonds
shall be signed.

Sec. 1600. All bonds issued under and in pursuance of the provisions herein shall be signed by the Trustees of such school district: *Provided*, That the signatures of such Trustees shall be lithographed or engraved upon the coupons attached to such bonds, and such lithographed or engraved signatures shall be sufficient signing thereof.

Proceeds;
how disposed
of.

Sec. 1601. The proceeds of such bonds as are contemplated hereinabove shall be deposited with the County Treasurer of the County in which such school district is located, and shall be receipted for by such County Treasurer, and shall be paid out by him only upon the warrant of such Board of Trustees, as provided by law for the handling, expending and accounting for all other County funds: *Provided*, That nothing in the above Sections shall be construed as affecting any bonds already issued or to be issued in any school district of the State or bonds authorized by special Acts of the Legislature.

How money
shall be de-
posited.

Sec. 1602. That the Treasurers of the Counties in which said school districts are situated are directed and required to deposit all moneys in their hands belonging to the sinking fund which may accumulate under the provisions herein in some savings institution or bank approved by the Board of Trustees of said school district, at the highest rate of interest that can be obtained until the said bonds mature, and that the said Treasurers shall, at the direction

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Board of Trustees, change the place of deposit at any

1603. Whenever it shall happen that by reason of special school districts in adjoining Counties should for convenience be included in school district, the County Boards of Education of Counties are hereby authorized and directed in joint reference to make such regulations as will enable such to be established into a separate school district. Provisions of this Section shall apply in all respects to school districts of Marion County and Dillon County have been cut by the lines separating said Counties.

1604. All bonds hereafter issued or sold, or to be after issued or sold, by the trustees of any school district or school districts pursuant to the vote of the majority of qualified voters of such school district, or school districts voting at an election heretofore or hereafter held for erection of buildings, for equipment, for maintaining schools in such district or districts, or for paying indebtedness of such district or districts, shall be exempt from all taxation for State, County, municipal or school purposes.

1605. Each County Board of Education, on the Tuesday of July, 1905, and on the first Tuesday in two years thereafter, shall appoint for each school district in their County three School Trustees, from the qualified electors and taxpayers residing in the district, who shall hold their office for two years, and until their successors are appointed and qualified, unless sooner removed by the County Board of Education. The County Board of Education shall have power to fill, from time to time, all vacancies in the Board of Trustees. The School Trustees shall meet as a Board as soon and as often as practicable, after having been appointed and qualified, at such place as may be most convenient in the district. At their first meeting they shall organize by electing one of their members Chairman of the Board, who shall preside at the regular meetings of the Board, and another Clerk of the Board, who shall record their proceedings in a book provided for that purpose. Each member of the Board of Trustees shall be duly notified of all meetings of the Board

special school districts in adjoining Counties.

Civ. '02, § 1209; 1910, XXVI, § 40.

School bonds exempt from taxation.

1908, XXV, § 1051.

School Trustees; when and how appointed; term of office; duties of, etc.

1903, XXIV, § 4; 1904, XXIV, § 528; 1906, XXV, § 1; 1907, XXV, § 522.

A. D. 1912.

position of each item, and who shall make a complete report of the receipts and disbursements of each fiscal year to the County Superintendent of Education before the 15th day of July of each year. The books and vouchers of the Secretary and Treasurer shall be open at all times to inspection by the public: *Provided, further,* That upon the petition of one-third of the qualified electors of School District No. 13, in Abbeville County, filed with the County Superintendent of Education, on or before the 1st day of June in any year, when School Trustees are to be appointed, the County Board of Education shall order an election to elect the Trustees for School District No. 13 in the manner herein provided for in the election of Trustees of special school districts: *Provided, further,* That upon the petition of one-third of the qualified electors of any school district in Chesterfield and Oconee Counties, except full and graded school districts, created by special Acts, filed with the Superintendent of Education of said County, on or before the 1st day of June in any year when School Trustees are to be appointed, the County Board of Education shall order an election to elect the Trustees for such school district in the manner herein provided for the election of Trustees of special school districts.

1606. The Board of Trustees in each school district shall take the management and control of the local educational interests of the same, and shall visit each school district at least once in every school term, and shall be subject to the supervision and orders of the County Board of Education.

Duty of
Board of
Trustees.
Civ. '02, §
1211.

See also *Bryson v. Daniel*, 52 S. C., 201; 29 S. E., 633.

1607. The Board of Trustees shall hold a regular session in their school districts at least two weeks before the commencement of any or every school term for the transaction of any and all business necessary to the prosperity of the schools, with power to adjourn from time to time and to call special meetings at any time or place when called upon by the Chairman or any two members of the Board.

Regular ses-
sion of
Civ. '02, §
1212.

1608. The School Trustees of the several school districts are authorized and empowered to sell any school property, real or personal, in their school districts whenever they deem it expedient to do so, and to apply the proceeds of

Power to sell
school prop-
erty.
Civ. '02, §
1213.

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ment due such teacher, which shall be signed by the
 ed, which order, if accompanied by a copy of said
 thly report and approved by the County Superintendent
 education, shall be countersigned by him and the dupli-
 filed in his office.

Sec. 1611. All claims, of every description whatsoever, Claims; how
and by whom
signed.
 h are chargeable against the fund raised for the sup-
 of the free public schools of the State, except such as
 otherwise provided for by law, must be signed by at
 a majority of the Board of Trustees of the school dis-
 against which the claims are chargeable; and the cor-
 ness and legality of the same shall be sworn to and sub-
 ed by the person presenting such claim before it shall
 approved by the person or persons authorized by law to
 such approval. School Trustees and County Superin-
 ents of Education shall, free of charge, administer
 s to persons presenting the claims contemplated by this
 ion.

See also *rel. Williams v. Hiers*, 51 S. C., 388; 29 S. E., 90; *State v. Mor-*
1 S. C., 328; 28 S. E., 945.

Sec. 1612. Any and all school warrants issued by any All school
warrants to
be approved
by the County
Superinten-
dent of Edu-
cation.
 rd of School Trustees against any public school fund
 l not be paid by the County Treasurer or other officer
 ing the custody of such fund until the warrant has been
 roved by the County Superintendent of Education of the
 nty in which said warrant is drawn.

Sec. 1613. It shall be unlawful for a School Trustee to Trustees not
to secure pay
as a teacher.
 ive pay as a teacher of a free public school.

Sec. 1614. The Board of Trustees shall also have author- Civ. '02, §
1217.
 and it shall be their duty:

st. To provide suitable school houses in their districts, Trustees to
provide school
houses.
 l to make the same comfortable, paying due regard to any
 ool house already built or site procured, as well as to all
 er circumstances proper to be considered so as best to
 omote the educational interests of their district.

nd. To employ teachers from those having certificates Employ
teachers.
 m their County Board of Examiners or from the State
 ard of Education, and fix their salaries, and to discharge
 e same when good and sufficient reasons for so doing pre-
 at themselves, subject to the supervision of the County
 ard of Education.

Civ. '02, §
1216.1909. XXVI,
182.Civ. '02, §
1218.

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shall raise by private subscription, special tax, regular sale of old buildings, issuing bonds, or otherwise, for building a school house in such district, the County Board of Education of such County shall turn over to the trustees of such school, from funds set aside for such purpose hereunder fifty dollars (\$50) for each one hundred dollars (\$100) so raised by such friends, patrons or trustees constructing such school building: *Provided*, No one shall receive more than three hundred dollars under the provisions herein: *Provided*, That in case of the construction of two or more schools an additional bonus of fifty dollars may be granted: *Provided*, further, That no more than one school in any one district, in any one year, shall receive such aid.

Sec. 1617. That County Boards of Education shall give preference to School Districts which have combined and consolidated two or more school buildings. Consolidated districts to have preference.

Sec. 1618. That any School District availing itself of the provisions herein shall comply with plans and specifications approved by the State Board of Education. Must comply with plans of the State Board of Education.

Sec. 1619. That no school shall receive aid under the provisions herein without the approval of the County Board of Education. Approval of County Board necessary.

Sec. 1620. That the funds provided for herein above shall be paid out by the County Treasurer only upon the warrant of the County Board of Education, countersigned by the County Superintendent of Education, and any funds not so paid by the end of the year shall revert back to the general fund of the respective Counties. How funds paid out.

Sec. 1621. The County Auditor shall require each taxpayer to return the number and name of the school district in which he resides when he makes his tax return, and the Auditor shall state the name in a separate column in the tax duplicates. Tax returns.

Sec. 1622. The County Auditor, when he has completed the tax duplicates, shall report to the County Superintendent of Education, by school districts, the names listed for poll tax, and the amount of taxable property where there is a special levy. Poll tax, etc to be reported. Civ. '02, 1219.

Sec. 1623. The several County Treasurers shall retain the poll tax collected in their respective Counties; and it is

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The Superintendent of Education shall make a written complaint to the Circuit Solicitor for the County in which said Treasurer resides, who shall prosecute the said County Treasurer for the same, and on conviction thereof shall be subject to a fine not more than five hundred dollars, the same to be used for free public school purposes in County.

Sec. 1628. The County Treasurer shall carry forward all moneys in his hands collected for any previous year or years for school purposes, and unexpended, to the next fiscal year, and credit the same to the school district respectively for which it was apportioned, and he shall report the same to the County Superintendent of Education.

Unexpended
balances to be
carried forward.

Civ. '02,
1226.

Sec. 1629. It shall be unlawful for any County Treasurer, County Auditor, member of County Board of Education, or School Trustee, to buy, discount or share, directly or indirectly, or be in any way interested in any teacher's salary certificate or other order on school fund, except such as may be payable to him for his own services, or for any School Trustee to make any contract, or be pecuniarily interested, directly or indirectly, in any contract with any school district of which he is Trustee.

Unlawful for
certain of
them to dis-
count teach-
ers' pay cer-
tificates.

Civ. '02,
1227.

See Criminal Code for penalty for violation of this provision.

Sec. 1630. The County Board of Education shall regulate the opening and closing of the school terms so as best to promote and subserve the educational interest of the different sections of their Counties: *Provided*, That all contracts which Boards of Trustees may make in excess of the moneys apportioned to their districts shall be void. And no teacher shall be employed by a Board of Trustees of any school district who is related to a member of the Board by consanguinity or affinity within the second degree, without the written approval of the Board of Education of the County, nor unless a majority of the parents or guardians of the children attending the school for which such teacher is employed requests such employment in writing.

Trustees to
regulate the
school term
Contracts of
Trustees.

Civ. '02,
1228.

Sec. 1631. It shall not be lawful for any person who is less than six or more than twenty-one years of age to attend any of the free public schools of this State.

Age of at-
tendance.

Civ. '02,
1229.

Sec. 1632. The members of the State Board of Educa-

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State and
County Boards
of Trustees
empted
militia
duty.

tion appointed by the Governor, members of the County Boards of Education appointed by the State Board of Education and members of the Board of Trustees shall be exempt from militia duty.

iv. '02, §
10.

See Criminal Code for penalty for members of County Boards of Education and School Trustees attempting to act after expiration of their term of office; and for teachers acting as agents for school boards.

ed schools
lawful.

Sec. 1633. It shall be unlawful for pupils of one race to attend the schools provided by Boards of Trustees for the sons of another race.

iv. '02, §
1.

Scholastic
year.

Sec. 1634. The scholastic year shall begin on the first day of July of each year and end on the thirtieth day of the following year.

iv. '02, §
2.

ed schools
be kept
open three
months.

Sec. 1635. The free public schools of the State shall be kept open and the exercises thereof continued, in each school district in the State, for a period of at least three months in each and every year.

iv. '02, §
3.

Comptroller-
General to
estimate
deficiency;

Sec. 1636. The Comptroller-General, in determining whether any deficiency exists in any school district, for the purposes of the distribution of the fund mentioned in the next succeeding Section, shall make his estimate upon the basis of the allowance to each school in every school district out of the three mill constitutional tax and poll tax, the sum of seventy-five dollars for the expense of such term of three months, for each school existing during the scholastic year 1897-1898.

Proportion-
of in-
come of li-
quors by the
State.

Sec. 1637. All net income derived by the State from the sale of liquors in this State, under the dispensary law, shall be apportioned among the various Counties of this State for the benefit of the common schools, in proportion to the deficiencies existing in the various Counties of this State after the application of the three mill tax and the poll tax to run the public schools for the time fixed in Section 1633, and if there shall be a surplus remaining of such net income after such deficiencies shall have been equalized, it shall be devoted to public school purposes, and be apportioned among the Counties in proportion to the enrollment in the public schools, as shall appear by the report of the Superintendent of Education for the next preceding scholastic year, and be distributed among the school districts of the Counties, and be disbursed as other school funds.

v. '02, §
1.

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ds: *Provided*, That out of said surplus there shall be appropriated five thousand dollars for the purpose of maintaining institutes for the better instruction of the teachers of the public schools, the same to be paid on the warrant of the Governor and the State Superintendent of Education; all funds derived from said dispensary law, not already disbursed, shall be apportioned in the same way.

Appropriations for Teachers' Institutes.

When mandamus will issue to compel apportionment.—State *ex rel.* Capers *vs.* *Perham*, 54 S. C., 349; 32 S. E., 418.

For the purpose of equalizing the free school term throughout the State, the sum of twenty thousand dollars is hereby appropriated. And the State Superintendent of Education is hereby directed to apportion the same for the

Appropriation to equalize school terms.
1909, XXVI, 165.

purpose of supplying the deficiencies which Section 6 of Article XI of the Constitution of this State requires the General Assembly to provide for. And the said sums shall be expended in accordance with the provisions of said Section of the Constitution in such manner as will give aid to schools in proportion to the deficiencies as they may be found to exist—the greatest deficiency receiving the greatest aid—so far as said fund will extend: *Provided*, That no school shall receive aid hereunder until a fund shall have been raised by the district, by levy or otherwise, which will equal one-half the amount to be received from this fund: *Provided, further*, That no school whose proportion of the regular school fund is sufficient to keep such school in operation for one hundred or more school days during the school year, shall receive any aid under the provisions hereof: *Provided, further*, That the maximum amount distributed to any one school, under the provisions hereof shall be one hundred dollars per annum.

The State Board of Education is hereby authorized and empowered to make rules and regulations for the guidance of the State Superintendent in the disbursement of said fund.

Sec. 1638. Such apportionment shall be made by the Comptroller-General quarterly, and he shall draw his warrant upon the State Treasurer in favor of the County Treasurer of the respective Counties for the amounts apportioned to such Counties, respectively.

When and how apportionment to be made.
Civ. '02, § 1256.

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Printing.

Civ. '02, §
1237.Acts creat-
ing special
graded school
districts not
repealed.Civ. '02, §
1238.Annual re-
ports to be
made to State
Superinten-
dent of Edu-
cation.Special tax
and tuition.County
Boards of Ed-
ucation to
provide
text-books for
schools at
cost.Civ. '02, §
1239: 1902,
XXIII, 1020;
1903, XXIV,
54; 1905,
XXIV, 837;
1907, XXV,
481; 1908,
XXV, 1123.Fund for:
how used.A perman-
ent fund: de-
positories, etc.

Sec. 1639. The State Superintendent of Education shall advertise for bids for all printing required under this act, and shall let the same to the lowest bidder therefor. Every bidder shall be required to file with his bid a bond in double the amount of his bid for the faithful performance of the contract.

Sec. 1640. Nothing contained in this Article shall be construed to repeal the Acts of the General Assembly creating special and graded school districts, and the provisions of said Acts shall apply to said school districts: *Provided*, That the Trustees of said school districts and Commissioners of the city schools of Charleston shall make annual reports to the State Superintendent of Education in such form and at such time as he shall prescribe: *Provided further*, Whenever under the provisions of law any district or municipal corporation is authorized to levy a special tax for the support of public schools therein, any person not a resident of said school district or municipal corporation shall be entitled to a credit upon fees of tuition of his or her children by the amount of such special tax paid by such person.

Rights of Special School Districts.—Holler v. Rock Hill School District, 60 S. C., 41; 38 S. E., 220; Martin v. School District of Laurens, 125 S. C., 125; 35 S. E., 517.

Sec. 1641. The County Boards of Education of the several Counties of this State are hereby authorized to set aside from the public school funds of their respective Counties an amount, not exceeding five hundred dollars, for the purpose of providing the pupils attending the free public schools of their Counties with school text-books at actual cost or exchange prices. The amount so set aside from the school fund shall be paid to the State Superintendent of Education by the County Treasurer of the unappropriated general school funds in his hands, and the warrant of the said County Board of Education shall be and remain a permanent fund in the hands of the County Superintendent of Education, to be used in providing and keeping on hand school text-books for sale to the pupils attending the free public schools of his County for use at actual cost or exchange prices, and to be used for no other purpose and in no other manner; and the places where

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ol text-books are kept and sold shall be deemed depositories, under control of the State, as provided in the seventh article, or provision in the seventh article, or provision in contract made in 1893 with the publishers of school text-books. That the County Superintendent of Education in every County in the State be, and is hereby, required to keep his office open each day of the week prior to the time appointed for school to open in his County, and for one week immediately thereafter, and for at least one day in each week during the remainder of the school term, for the convenience of those wishing to purchase books: *Provided*, that in the Counties of Charleston, Chesterfield, Georgetown, Kershaw, Lancaster, Laurens, Greenwood, Marion, Newberry, Richland, Orangeburg and Darlington the County Boards of Education are hereby authorized and empowered, but not required, to carry out the provisions of this Section: *Provided, however*, That nothing herein shall prevent the keeping of said depository in some other place than the office of the Superintendent of Education if in his judgment it is best to do so.

Sec. 1642. Whenever it shall be made to appear to the satisfaction of the Trustees of any school district that the patron of such school is unable by reason of poverty to purchase the necessary books for the use of his or her child or children, then in such case the Trustees of such school district may, in their discretion, purchase such necessary books for such pupils, and furnish the same to pupils under such regulations as the Trustees may prescribe: *Provided*, The sum so expended for the purchase of said books shall not exceed the sum of 5 per cent. of all the school fund of said district in any one year: *And Provided, further*, that the books so purchased shall be the property of such public school district and must be returned to the Board of Trustees at the end of each term.

Sec. 1643. The County Superintendents of Education of the several Counties of this State are hereby authorized and required to select and secure a reliable merchant, postmaster or other reliable person in each Township in each county, with whom there shall be deposited a sufficient number of school books for sale for schools in the Township, at not exceeding ten per cent. above first cost; and

School Trustees may purchase books for certain pupils.

1902, XXIII.
1020.

School book depositories.

1905, XXIV.
877.

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that accurate accounts thereof shall be kept by the County Superintendent with each depository.

und for free
rary.

904, XXIV,
1: 1906,
CIV. 877;
08, X X V,
24

Sec. 1644. Whenever the patrons and friends of a public school shall raise, by private subscription, a sum of ten dollars, to the County Treasurer, with the approval and consent of the School Trustees of such school district, for the establishment of a library to be connected with the school, the County Board of Education shall appropriate from the money belonging to the school district asking for the library, the sum of ten dollars for this purpose (together with ten dollars from the County school fund) for a suitable book-case which shall be approved by the County Board of Education.

low money
be paid.

Sec. 1645. As soon as the County Board of Education of any County shall have made an appropriation for the purchase of books in the manner prescribed, the County Superintendent shall inform the Secretary of the State Board of Education of the fact, whereupon the said State Board of Education shall remit the County Superintendent the sum of ten dollars for the purchase of books for said library. Upon receipt of this money, the County Superintendent shall deposit the same with the County Treasurer and shall issue to the person or persons appointed to select the books a warrant on the County Treasurer for the amount thereof by private subscription, by appropriation from the County school fund, by the Board of Education, and by the State Board of Education.

Selection of
books.

Sec. 1646. The local Board of Trustees of every school district shall be appointed to select the books, and shall select such books as they may deem best suited for such purpose, and shall certify to the County Superintendent of Education vouching for the whole amount received: *Provided*, That no voucher shall be valid except for books, book-cases, and transportation charges: *Provided, further*, That such purchases shall be made from a list furnished by the State Board of Education, in which the said State Board shall adopt books for use in the schools under the law and rules governing the adoption of books, and shall make rules for the governing of school libraries.

Preservation
books.

Sec. 1647. The Trustees of every library shall make and enforce such rules and regulations for the proper use and

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of the books as may be enjoined by the State Board of Education, and shall make provisions for having all books, not in circulation, kept under lock and key.

c. 1648. The Trustees of two or more libraries may agree to exchange libraries: *Provided*, That no exchange shall be made oftener than once in six months, and no part of the expense of exchanging libraries shall be borne by the public. Exchange of
libraries.

c. 1649. That the sum of five thousand dollars be annually appropriated to be expended by the State Board of Education, under the provisions of Section 1644. Appropriation.

c. 1650. Not more than twenty-five schools in any county shall be entitled to the benefits of Section 1644. The schools receiving this benefit shall be decided by the County Boards of Education: *Provided*, That the State Board of Education, after having set aside enough of this appropriation to meet the needs and demands of the schools, may use the balance to pay transportation, drayage and other necessary expenses in the circulation of any traveling libraries which may be donated or loaned to the State, and for any traveling cabinets of museum specimens which may be furnished under similar terms: *Provided, further*, That any additional balance may be used for prizes for school improvement, under such terms and rules as the State Board of Education may arrange with the State School Improvement Association. Number of
schools en-
titled to ben-
efit.
1908, XXV,
1024.

c. 1651. Whenever the patrons or friends of any free public school in which a library has been established under the provisions of the laws of this State, shall raise, by private subscription, and tender the Treasurer of the County School Board, the sum of five dollars for the enlargement of the library, the County Board of Education shall appropriate from the money belonging to that school district the sum of five dollars, and the State Board of Education shall remit to the County Superintendent of Education the sum of five dollars. The money thus collected and appropriated shall be used for the enlargement of libraries already established, under the same rules and restrictions as govern the establishment of new libraries: *Provided*, No appropriation shall be made for the purpose of enlarging any established Enlargement
of libraries.

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library where the same will prevent or interfere with establishing of a new library.

Unlawful to
use con-
demned books.

Civ. '02, §
1240.

Sec. 1652. In all schools and colleges within the State which are supported in whole or in part from school funds, it shall be unlawful to use any text book which has been condemned or disapproved by the Board of Education.

Old school
claims paid.

Civ. '02, §
1241.

Sec. 1653. All persons holding school claims against the County of this State which are unpaid are hereby permitted to prove and establish the same before the County Superintendent of Education, the County Treasurer and County Auditor of said County.

To be paid
if valid.

If said claims are declared valid and binding obligations by said County Superintendent of Education, Auditor and County Treasurer against the school district for which the same were issued, the County Treasurer of said County is authorized and directed to pay any of said claims declared valid out of the first money coming in his hands as County Treasurer belonging to the school district against which the claim or claims are established.

See Acts 1901, XXIII, 826, as to payment of claims in Clarendon, Marion, Newberry and Sumter Counties.

Officers au-
thorized to
borrow money
to pay school
claims.

1902, XXIII,
1019.

Sec. 1654. The County Treasurers, and the Supervisors of the several Counties in this State are hereby authorized and required upon the authorization of the County Boards of Education of the several Counties to borrow, from time to time during any fiscal year, such sums of money as may be necessary to pay school claims of such Counties, not to exceed seven per cent. of the amount reported by the County Auditor for schools for said fiscal year, at a rate of interest not exceeding the rate of seven per centum per annum, and to pledge the taxes to be collected for that purpose for the payment of the money so borrowed and the interest thereon. *Provided*, That all money borrowed shall be held as school funds and paid out by the County Treasurer as school funds and not as extra commission.

Amount, in-
terest: how
disbursed.

Reserve fund
authorized to
place schools
on cash basis.

1902, XXIII,
1019.

Sec. 1655. In any County in this State where the County Board of Education may, at its discretion, determine that the County Superintendent of Education to set aside

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school funds of the County, or any of the school districts, an amount annually of not exceeding ten per cent. of such funds, for so many years as may be necessary to create a sufficient fund to put the schools of such County of the school districts on a cash basis. To be inserted in Code 1241b.

Sec. 1656. Whenever said reserve fund reaches an amount sufficient to put said County or school district, as the case may be, on a cash basis, then said fund may be used for said purpose: *Provided*, That in each year during the time necessary to create such reserve fund, the County Superintendent of Education shall use the fund accumulated as a loan, without interest, to pay claims held by others to whom the pay certificates were originally issued, and the funds so used to be replaced annually from taxes collected for school purposes. Fund; here used as maintained.

Sec. 1657. The free public schools of this State shall observe the third Friday in November of each year as Arbor Day, and on that day the school officers and teachers shall conduct such exercises and engage in the planting of such shrubs, plants and trees as will impress on the minds of the pupils the proper value and appreciation to be placed on flowers, ornamental shrubbery and shade trees. Students of public schools to observe Arbor Day. Civ. '02, 1242.

Sec. 1658. The public schools of this State shall observe Lincoln's birthday, the 18th of March, of each year, as "South Carolina Day," and on that day the school officers and teachers shall conduct such exercises as will conduce to a more general knowledge and appreciation of the history, resources and possibilities of this State: *Provided*, That if said day shall fall on Saturday or Sunday, that the day nearest to March 18th shall be selected: *Provided*, *Further*, That if any school shall not be in session on the said date, that the celebration may be held before the close of the term. 18 March of each year to be celebrated in the public schools. 1906, XXV 22.

That the State Superintendent of Education shall suggest such topics or programmes as he may deem appropriate for the celebration of South Carolina Day.

Sec. 1659. The Trustees, officers or persons in charge of all literary, scientific or professional institutions of learning, whether incorporated, supported or aided by the State, of all public or private educational institutions, shall, on or before the fifteenth day of July in each year, make a report in Officers and Trustees of certain institutions to report to State Superintendent. Civ. '02, 1243.

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writing to the State Superintendent of Education, statistics as the Superintendent shall prescribe relative to the number of pupils and instructors, courses of study, of tuition and the general condition of the institution or school under their charge.

Blank forms
of inquiry.

Civ. '02, §
1244.

The Superintendent shall prepare blank forms of for such statistics, and shall send the same to every institution or school on or before the 10th day of each year; and so much of said information as he may proper be incorporated in his annual report.

See provisions in regard to annual capitation tax on dogs for expenses.

County Superintendent of Education charged with schools, etc., outside city of Charleston; allowed mileage.

Sec. 1660. The County Superintendent of Education of Charleston County shall have jurisdiction only of schools and other educational interests outside of the corporate limits of the City of Charleston. He shall organize in all those districts outside of the city, formerly known as parishes, a suitable number of schools, and shall visit them as often as may be practicable during each year, and perform such other duties as are prescribed for County Superintendents of Education in this Chapter. He shall receive a stated salary of six hundred dollars per annum, payable by the County Treasurer in equal monthly installments, which salary shall cover also all traveling expenses which may be incurred.

Division of city of Charleston into six school districts, School Board; how constituted.

Civ. '02, §
1245.

Sec. 1661. The City of Charleston is hereby divided into six school districts; the First District to comprise Wards One (1) and Two (2), the Second District to comprise Wards Three (3) and Four (4), the Third District to comprise Wards Five (5) and Six (6), the Fourth District to comprise Wards Seven (7) and Eight (8), the Fifth District to comprise Wards Nine (9) and Ten (10), the Sixth District to comprise Wards Eleven (11) and Twelve (12) of said city. At every general municipal election in the City of Charleston there shall be elected by the legal voters of each of the said school districts respectively one School Commissioner, and the six School Commissioners so elected together with the two School Commissioners to be appointed for the same term by the Governor, upon the recommendation of the Board of Trustees of the High School of Charleston, and two School Commissioners to be appointed

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term by the Governor, upon the recommendation of Board of Trustees of the College of Charleston, shall constitute the School Board for the City of Charleston, shall be invested with all the powers and perform all duties, and in every respect be governed by the laws existing respecting the School Board of the City of Charleston as heretofore constituted.

The Commissioners so elected and appointed may assemble at any time and elect a Chairman, a Clerk and a Superintendent of City Schools, whose term of office, duties and powers shall be determined by said Board; but their powers shall be the same as that of the Board electing

shall have the following powers and duties of the School Board of the city of Charleston. Civ. '02. 1246; 1904 XXV, 1042.

to elect and dismiss teachers; (4) to make contracts for the purchase of school books; (5) to fill vacancies by death, resignation, departure or otherwise; the said vacancies to be filled within the time in which they occur; (6) to manage the school department, which shall be the same to become teachers; (7) to make an annual report to the Board of County Schools; (8) to purchase and lease all buildings and other property for the use of the city; (9) for the purpose to carry into effect the laws relating to the school tax, and to deem a school district, and to annually levy and collect, at the rate of a tax of two mills on the value of the property in the said city, and the same to be paid to the City Treasurer the same as the school tax and of the poll tax in each District is entitled; and the city treasury as public

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money, protected by the official bond of the City Treasurer, and shall be paid out on the warrant of the City Treasurer and School Commissioners; the said amount to be applied to the support of the city schools, and the balance to the purchase of city school buildings. The City Treasurer shall draw out of this fund annually, for his compensation and services in receiving and disbursing the school fund, a sum of five hundred dollars.

Provision for
the higher ed-
ucation of
meritorious
boys; power
and duty of
Board as to.

Civ. '02, §
1247.

Sec. 1683. It shall be the duty of the said School Board and they are hereby authorized and empowered, to select from the public schools the school of the German language of Charleston, South Carolina, and the Central High School, by competitive examination, such meritorious boys who desire to secure the privilege of a more liberal education and are otherwise unable to secure the same, and recommend them to be received into the High School of Charleston, under such rules and regulations as may be prescribed by the said Board of Trustees of the High School of Charleston. And the said School Board is further authorized and empowered to pay the regular annual tuition fees, and more, for such pupils so recommended as may be admitted into said High School and maintain such a standard of education as required of them, which said tuition fees shall be paid out of the fund to which the Charleston School District is entitled out of the amount raised by the City of Charleston, and not out of the Constitutional two mill tax.

Such pupils so admitted into the High School of Charleston as shall, upon graduation, be recommended by the School Board of the City of Charleston for promotion therein, shall be entitled to the free honorary scholarship in the College of Charleston provided for such purpose by the Board of Trustees of the College of Charleston, and the said scholarships to be held under the rules and regulations prescribed by the Trustees of the College of Charleston.

Board to ap-
point benefi-
ciaries in State
University

Civ. '02, §
248.

Sec. 1684. For the further promotion of the education of the youth of the State, the said School Board is hereby authorized and empowered to appoint the beneficiaries of the scholarships to which the County of Charleston may be entitled in either branch of the State University.

See Section 1614, *ante*, as to restrictions on power of School Board in the employment of teachers.

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Sec. 1665. The City Board of Public School Commissioners for the City of Charleston shall have the power to establish what shall be known as the Public School Teachers' Retirement Fund, which fund shall be administered by the Board of Trustees hereinafter provided for. Said fund shall consist of:

Public school teachers' retirement fund for the city of Charleston: may be established, and how.

Civ. '02, § 1249.

1. All moneys and other property received from donations, legacies, devises, gifts, bequests or otherwise for and to the account of the said fund.

2. On and after April 1st, 1898, the said City Board of Public School Commissioners shall annually reserve and turn over to the Board of Trustees as provided for in Section 1666, of the said fund, ten per cent. for the first five years and thereafter four per cent. of the gross income of the special fund paid by the City of Charleston.

3. All interest or income derived from the above investments.

Sec. 1666. The Chairman of the City Board of Public School Commissioners, together with two other commissioners chosen by the said Board, the Superintendent of Public Schools, who shall be *ex officio* the Treasurer of the said Board, and a representative to be elected every four years by the teachers of the public schools of the City of Charleston, at the same time the School Commissioners are elected, shall form a Board of Trustees, who shall have charge of and administer the said fund; and said Board of Trustees shall invest the same in stock of this State, or of the United States, or in bonds of the City of Charleston, and shall make payment, from said fund, of annuities granted in pursuance of this Article, and shall from time to time make and establish such rules and regulations for the administration of the said funds as they shall deem best.

Board of Trustees for; of whom to consist; duties, etc.

Civ. '02, § 1250.

Sec. 1667. Every teacher in the public schools of the City of Charleston who is over the age of sixty-five years, and who shall have taught in the public schools for the period of twenty-five years next preceding the time of retirement may retire, and shall have the right voluntarily to retire, during such service, and upon the certificate of the City Board of Public School Commissioners that he or she stands in need of maintenance, become a beneficiary under this Article; and every such teacher so retired or retiring shall be entitled

What teachers may become beneficiaries.

Civ. '02, § 1251.

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to an annuity for the remainder of his or her life, to be paid by the said Board of Trustees out of the said fund one-half of the salary of such teacher at the time of his or her retirement, at the same times and in the same proportion as the salaries of the teachers are paid: *Provided*, That the annuity so paid shall in no case exceed two hundred and fifty dollars in any one year.

Civ. '02, § 1252.

Sec. 1666. Every teacher in the public schools in the City of Charleston who shall have taught continuously for not less than twenty years, and has become, without fault of such teacher, mentally or physically incapacitated for such service, may retire or be retired therefrom and become a beneficiary of said fund in the same manner as provided to the same extent as provided in Section 1667: *Provided*, That such annuity shall cease when such incapacity shall be removed.

If fund insufficient for purpose, to be paid out pro rata.

Sec. 1669. In case the fund shall be insufficient to pay the annuities provided for in Section 1667, the Board of Trustees shall make a ratable distribution among the teachers who may be entitled to the annuities under the provisions of this Article.

Civ. '02, § 1253.

Disposition of surplus school funds in Charleston County.

Sec. 1670. The surplus of all moneys derived from the annual tax of three mills for educational purposes after supplying the requirements of the schools in the County of Charleston, outside of the limits of the City of Charleston, shall be paid by the County Treasurer to the City Board of School Commissioners for the purpose of paying the salaries of the teachers in the schools under their charge.

How surplus to be ascertained.

Civ. '02, § 1255.

Sec. 1671. In order to ascertain what are the requirements in each fiscal year, respectively, of each of the school districts in said County outside of the City of Charleston, one or more of the School Trustees of each of such districts separately shall meet and confer with the Board of Education of said County annually (at such place and time as the County Superintendent of Education of said County shall name), ten days' previous notice of such meeting being given in writing by said County Superintendent of Education to each of said Trustees, and each Trustee or Trustees and such County Board of Education shall sit as a special Board to fix the amount of such requirements of each of such school districts. And when the amount of such requirements of each of such school

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have been fixed as hereinbefore provided, the County Superintendent of Education of said County shall report to the County Treasurer of said County such amounts, respectively, and separately, whereupon the County Treasurer shall aggregate the amounts so reported to him and retain the surplus (if any) remaining from the proceeds of the levy for school purposes after deducting such aggregate.

Having thus ascertained the amount of said surplus, the County Treasurer shall, as soon as practicable, report said amount to the City Board of School Commissioners, and shall pay over the same to said Board upon its warrant.

Amount of surplus to be reported to City Board of School Commissioners.

Sec. 1672. The said City Board of School Commissioners shall use said funds exclusively in the education of children, and shall account annually therefor in the mode provided by law.

How said funds are to be used.

Civ. '02, § 1256.

Sec. 1673. It shall be lawful for any common school district which does not contain an incorporated town or city of more than twenty-five hundred inhabitants, or for any county, or for any Township, or aggregation of adjoining townships, or aggregation of adjoining school districts, in which there is no incorporated town or city of more than twenty-five hundred inhabitants, within the State, to establish a high school in the manner and with the privileges herein given.

High Schools may be established.

1907, XXV, 618; 1908, XXV, 1119; 1909, XXVI, 856; 1910, XXVI, 748.

Sec. 1674. That any high school territorial unit mentioned in Section 1673 may establish a high school by election to be held in said proposed high school district upon the question of establishing the same; said election to be ordered upon the written petition of at least one-third of the freeholders within the territory, addressed to the County Board of Education; said election to be conducted in all other respects, including the requirements of those who are allowed to vote therein, as elections now conducted under Section 1595 of the Civil Code of 1912, in reference to special levies for school purposes. The majority of the votes cast in each school district shall be "For High Schools" and not "Against High Schools," and if the high school shall be established and become a body corporate, under the name and style of High School District No. of County (the State Board

Election to be held.

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Board of
Trustees to
be appointed.

to insert the number in order of its establishment of particular County, and also the name of the County). If a single school district establish a high school, the Board of Trustees of that school district shall be the High School Board of Trustees. If any two or more common school districts have heretofore established a high school, and hereafter establish a high school district, the Board of Trustees of that common school district in which the school building is located, together with the chairmen of the other common school district or districts embraced in said high school district, shall constitute the Board of Trustees of said high school district. If a special school district created by and operating under a special Act of the General Assembly of South Carolina, in which one or more common school districts have heretofore established or shall hereafter establish a high school district, the Board of Trustees of such special school district shall constitute the Board of Trustees of said high school district.

High School
District may
vote a tax.

Sec. 1675. The qualified electors and freeholders of any territory proposing to become a high school district, whether a high school district heretofore established, shall be organized to vote a high school tax, not exceeding two mills, under the same rules and under the same terms as special taxes are now voted under Section 1595 of the Civil Code of 1907. *Provided*, That any common school district within a high school territorial unit may vote itself out of the high school unit in the same manner as prescribed for its entrance into the high school unit: *Provided*, That any territorial high school unit which has heretofore voted for the establishment of a high school therein shall, upon compliance with the provisions herein, be entitled to the provisions and benefits thereof.

Any high
school already
established
may claim
privilege of
this Act.

Sec. 1676. Any public high school already established or any number of high school grades in a public school already established—provided it shall be organized and adopted as a high school by special election as prescribed in Section 1674 of this Act—in any high school territorial unit above described, may claim the privilege hereof. *Provided*, It conforms to the provisions thereof: *Provided further*, That nothing herein shall be construed to

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of any of the privileges granted them in the special of the General Assembly.

1677. A high school maintaining a four years' of study beyond the branches of learning prescribed taught in the common schools of the State, and containing not fewer than seven grades or school years, shall be known as a four-year high school; a high school maintaining a three years' course beyond the common school course, shall be known as a three-year high school; and one maintaining a two years' course beyond the common school course, shall be known as a two-year high school: *Provided*, that any and all high schools established under authority of this Act, shall include in the course of study instruction in manual training, especially in respect to agriculture and domestic science.

Classifica-
tion of high
schools.

1678. The State High School Board shall provide for the inspection and classification of high schools. In doing this, it may invite the assistance of such members of the Universities and Colleges of the State, as it may select, and their actual expenses shall be paid out of the fund hereafter appropriated from year to year, while they are engaged in the duties devolving upon them.

Who shall
classify.

1679. The State Board of Education, as now constituted, shall constitute the State High School Board, with authority to prescribe all such regulations as may not be inconsistent with this Act. The State High School Board shall provide rules for the apportionment and disbursement of the State aid to the high schools, giving due recognition to the number of years of the high school work, to the number of the courses of study offered, to the enrollment of pupils, the amount of industrial or commercial training given, and to such other matters of local merit as may be referred to the Board proper after a careful examination of each high school: *Provided*, That not more than \$500 may be given to a two-year high school, nor more than \$600 may be given to a three-year high school, nor more than \$700 may be given to a four-year high school: *Provided, further*, that an additional \$100 may be given to a Township high school or to a high school embracing as many as six common-school districts: *Provided, further*, That the Board shall give additional aid for industrial and commercial

State Board
of Education
shall consti-
tute State
High School
Board, and
shall make
rules for ap-
portionment
of funds.

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courses: *Provided, further*, That the Board may give aid to a high school levying a special high school tax of not more than one mill, twenty-five dollars for each and every high school district composing that high school unit: *further*, That no high school shall receive aid unless it has at least twenty-five high school pupils and two teachers in the high school department: *Provided, further*, That the Board may give aid to a rural high school or a village high school with but fifteen high school pupils and one high school teacher; such village to contain not exceeding one hundred inhabitants: *Provided, further*, That no aid shall be given any high school unless the district or districts composing the high school territory are levying or shall be levying not more than two mills special school tax, which may be levied as either a common school or a high school tax: *And* That no County shall receive more than five per cent of the annual appropriation provided for under this Act.

How funds
shall be paid
out.

Sec. 1680. The funds raised in the various Counties by taxation, subscription, or otherwise, for high school purposes shall be placed in the County treasury, together with any appropriation received from the State Board of Education and shall be paid out only upon the order of the Board of High School Trustees, duly approved by the County Superintendent of Education. Both the Treasurer of the County and the County Superintendent of Education shall keep separate accounts of this fund, as is provided for other public funds.

Each district
may receive
gifts; may is-
sue bonds.

Sec. 1681. That each of the High School Districts established is hereby authorized to receive and hold gifts, transfers, bequests or devises of property for school purposes, whether they be otherwise conditional, or absolute in their terms; and also to issue coupons for bonds within the constitutional limit, and to dispose of the proceeds to raise money for the purpose of purchasing site for the erection of buildings thereon, or for the purpose of purchasing improved property, suitable for school, library, or mess hall purposes: *Provided*, That the terms of amount of issue, and the rate of interest, and the times of payment of the principal shall first be determined by the qualified electors within the said high school district at an election to be held in the same manner as

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Special levies for school district purposes are now
 red to be submitted under Section 1595 of said Code: ^{Election to}
ided, That a petition for such election be first addressed ^{authorise}
 e Board of Trustees of said School District, signed ^{bonds.}
 majority of the freeholders therein: *And Provided*,
er, That an annual interest on said issue shall not
 d six per cent., and that the sale shall not be for less
 par, and accrued interest.

. 1882. That the sum of sixty thousand dollars ^{\$60,000 ap-}
 000) or so much thereof as may be necessary, for each ^{propriated for}
 e school years, beginning July 1, 1907, be, and the ^{high schools.}
 is hereby, appropriated to carry out the provisions in
 d to high schools, and the Comptroller-General is
 y authorized to draw warrants upon the State Treas-
 for such amounts, upon the order of the State Board
 ducation, duly signed by the Governor, as chairman,
 the State Superintendent of Education, as secretary:
ided, That every high school receiving aid under
 Act shall enroll any high school pupil in the County
 e the school is located free of tuition: *Provided, further*,
 nothing in this Act shall be construed to mean that
 ls of different races shall attend the same schools.

. 1883. This Act shall in no wise interfere with the ^{Limit of}
 schools already established until July 1, 1911, when all ^{time.}
 to high schools not coming within the provisions of
 High School Act of 1908 shall be withdrawn.

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CHAPTER XXV.

Colleges and Universities.

ARTICLE 1. State Colleges in General.

ARTICLE 2. The University of South Carolina.

ARTICLE 3. The Citadel, The Military College of South Carolina.

ARTICLE 4. The Winthrop Normal and Industrial College of South Carolina.

ARTICLE 5. The Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina.

ARTICLE I.

STATE COLLEGES AND UNIVERSITIES.

SEC.

1684. State colleges and universities.

1685. Colleges and universities to confer degree of Licentiate of Instruction.

1686. Greek letter fraternities prohibited.

1687. Christmas holidays.

SEC.

1688. Appointment to government position; duty to teach.

1689. Report of names of students.

1690. Duty of Auditor thereon.

State colleges and universities.

1906, XXV, 16.

Section 1684. There shall be universities and colleges as follows: One located in the City of Columbia, styled the University of South Carolina; another in or near the City of Orangeburg, styled the Colored Normal, Agricultural and Mechanical College of South Carolina; another in the City of Winthrop, styled the Winthrop Normal and Industrial College of South Carolina; and another styled The Citadel, The Military College of South Carolina. They shall be separate and distinct institutions, each under its separate Board of Trustees or Visitors.

Sec. 1685. The universities and colleges of the State may provide a course of study, to be approved by the Board of Trustees or Visitors.

of Education, the completion of which by a student entitle him or her to the degree of Licentiate of Instruction and they may issue a diploma showing the degree has been conferred, and the holder of such diploma, upon its presentation to a County Board of Education, shall be entitled to a first grade teachers' County certificate to teach in the public schools of the County.

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Colleges and universities of the State may confer Degree of Licentiate of Instruction.

Civ. '02, § 1258.

1686. The governing Boards of all institutions of learning in South Carolina supported in whole or in part by public funds are required to forbid and disallow their respective institutions secret Greek letter fraternities or all organizations of a similar nature: *Provided*, Nothing herein contained shall interfere with the literary societies in such institutions.

Greek letter fraternities prohibited in State institutions.

Civ. '02, § 1259.

1687. All State colleges and universities shall suspend exercises for a period of not exceeding ten days, including the time required for going from and returning to said colleges, said period to include Christmas Day and New Year's Day.

All State colleges shall suspend exercises for ten days at Christmas.

1906, XXV, 42.

1688. Any beneficiary student who is in actual attendance, or may have graduated from any State colleges or institutions of learning, and may thereby be obliged to serve for a term of years in the common or other schools of the State, or any and all moneys expended in his education by the State, shall be released and absolved from such obligations by receiving an appointment to the Naval or Military Academy of the United States, or to a position in the army or navy or other government service of the United States.

Appointment to naval or military academy relieves beneficiary of duty to teach in the public schools.

1909, XXVI, 150.

1689. The authorities of all colleges or institutions of learning supported in whole or in part by the State, shall report to the General Assembly at its annual meeting the names of all students, with the postoffice address of each, whether such students are pay, beneficiary or scholarship students.

All institutions receiving support from State to report names of beneficiary students, etc.

1906, XXV, 110.

1690. The Auditors of the several Counties of this State are required to keep a record and file of all affidavits before them, as now required by law, of inability on part of parent, guardian or trustee to pay tuition.

Auditors to keep and file affidavits of inability to pay tuition.

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ARTICLE II.

THE UNIVERSITY OF SOUTH CAROLINA.

Sec.

1691. Board of Trustees, election, term, etc.

1692. Corporate name and powers.

1693. Meetings of Board; President; quorum.

1694. Powers of Board at meetings.

1695. Property of University.

1696. Boards to receive and invest funds for scholarships.

1697. Power of Board to procure evidence.

1698. Election of President; Faculty; powers of.

Sec.

1699. President not to be Infidel; Chaplain.

1700. Librarian, appointments; duties; assignments.

1701. Tuition fees and scholarships.

1702. May confer degrees.

1703. Discretionary powers.

1704. Normal and women's schools.

1705. May receive bequests.

Trustees of
University of
South Caro-
lina, of whom
composed;
members of of-
fice, etc.

Civ. '02, §
80.

Section 1691. The Board of Trustees of The University of South Carolina shall be composed of the Governor of the State, the Superintendent of Education and the Clerk of the Committees on Education of the Senate and of the Representatives, who shall be members *ex officio* of the Board, and seven other members, each to be elected by joint vote of the General Assembly, as hereinafter provided.

The regular terms of office of the elective members of each of the aforesaid Board of Trustees of The University of South Carolina shall be six years, after the first election in which the terms of office of those elected therein shall be two for two years, two for four years, and three for six years, on said Board, these terms to be determined after said elections.

The terms of the elected members of said Board shall date from the first day of February, A. D. 1900; and the General Assembly shall hold elections every two years to fill vacancies as they occur in any of said Boards by the expiration of terms of office. In all cases where there is a vacancy in any of said Boards of Trustees, the Governor shall be empowered to fill same by appointment until the next session of the General Assembly.

Each member of the Board shall receive as compensation for his services and attendance on the meetings of the Board his actual expenses.

Sec. 1692. The said Board of Trustees is a body corporate and politic, in deed and in law, by the name of the Board of Trustees of The University of South Carolina.

by said name they and their successors shall have perpetual succession, and be able and capable in law to have, use and enjoy, to them and their successors, lands, tenements and hereditaments of any kind or value, in fee or for years, and personal property of any kind whatever, and all sums of money of any amount whatsoever which may be granted, devised or bequeathed to them for the purpose of building, erecting, endowing or supporting the said university; but in receiving any such bequest no liabilities of any character shall be made binding or obligatory upon the State, except such as are accepted by the General Assembly. They shall have a common seal* for themselves and their successors, with liberty to alter the same from time to time, and by their corporate name shall and may be able to sue and be impleaded, defend and be defended, in all Courts of this State.

Sec. 1693. The Board of Trustees shall meet in Columbia at such time and place as the Governor shall direct; and the Governor of the State shall be the President of the Board, and in his absence the Board shall select one of their number to act as President. The stated meetings of the Board shall be held at least twice a year; but the President of the Board shall have power to assemble it at any time in extraordinary meeting, and it shall be his duty to do so whenever requested by the Faculty of said university. A majority of the members of the Board shall constitute a quorum for the transaction of ordinary business, but not less than a majority vote of the whole Board shall be required for the election or removal of a President or Professor, for the creation or abolition of any professorship, or for the expulsion of a student.

Sec. 1694. The said Trustees, or a quorum of them, being lawfully convened, shall be capable of doing or transacting the business of said university, but more particularly of appointing all the necessary officers of the said university, of removing any of them for neglect or misconduct, of prescribing the course of studies to be pursued by the students, and in general of enacting all such rules, regulations and laws as shall appear to them necessary and not repugnant to the laws of the State and of the United States. They shall have the power to appoint for said university

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Incorporation and corporate powers.

Civ. '02, § 1261.

Meetings of Board; President; quorum.

Civ. '02, § 1262.

Powers of Board at meetings.

Civ. '02, § 1263.

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1699. The said Board shall take care that the President of the university shall not be an atheist or infidel, and one of the Professors shall be charged with the duties of chaplain to the university under such regulations and such additional salary as may be fixed by the said Board.

President must not be an atheist or infidel; Chaplain, etc.

Civ. '02, § 1268.

1700. The said Board shall appoint a Librarian for the university, who shall perform such other duties and receive such salary or compensation as the Board may prescribe. The Trustees shall have authority to assign any Professor to additional duties in any other school or schools without additional salary.

Librarian: how appointed; and duties of; assignment of Professors to other duties.

Civ. '02, § 1269.

1701. The tuition fee shall be forty dollars per annum for each student, and shall go to the sustenance of the university, except that in the Law Department the Board of Trustees may fix such additional fees as they may deem necessary to make it self-sustaining as soon as possible; compensation for room rent, use of Library, and damage to property, shall be regulated by the Board; and all other fees in the Law Department shall be subject to the disposal of the Board for the payment of the salary of the Professor. Except in the Law Department, the Faculty of the said university may grant beneficiary scholarships, without payment of any fees, to such competent and deserving youths of this State as may be unable to pay the tuition, and the Trustees of the said university shall prescribe the rules and regulations as may be proper to confine the enjoyment of this privilege to those whose necessities require it.

Tuition fees and beneficiary scholarships; regulations as to.

Civ. '02, § 1270.

And the Board of Trustees may remit all fees to teachers in the State, in both public and private schools, who take special courses offered teachers by the university.

Sec. 1702. The said university shall have full power to confer degrees on students and on such other persons as may be qualified to receive the same.

College may confer degrees.

Civ. '02, § 1271.

Sec. 1703. The Board of Trustees shall have the power to adopt such measures and make such regulations as may, in their discretion be necessary to carry out any of the provisions aforesaid in all cases where the same has not been specially provided for therein.

Discretionary powers of Board.

Civ. '02, § 1272.

CIVIL CODE

The Board of Trustees shall provide for normal students, without fees for tuition, two young men from each County; and shall admit young women to enter the upper Junior class.

The said corporation is hereby empowered to receive and hold all moneys or other property that may be given, conveyed, bequeathed to said corporation; but in case such moneys or property given, conveyed, bequeathed or devised to any trust, that then, and in that case, such property shall be held and used strictly as provided in such trust.

ARTICLE III.

SECTION 1. THE MILITARY COLLEGE OF SOUTH CAROLINA.

	SEC.
1711. Board of Visitors; how composed, etc.	1712. Board of Visitors; how composed, etc.
1712. Board of Visitors; how composed, etc.	1713. Release of Benefactors from obligations.
1713. Release of Benefactors from obligations.	1714. Annual report of Board of Visitors.
1714. Annual report of Board of Visitors.	

06. The Board of Visitors of the Military College of South Carolina, shall be composed of the Governor of the State, the Adjutant and Inspector of the State, the Superintendent of Education, and the President of the Military Committees of the Senate and the House of Representatives, who shall be members *ex officio*; and five others to be elected, by joint vote of the General Assembly as herein provided, who shall be members of the Academy.

The terms of office of the elective members shall be for two years after the first election. The term of those elected at the first election shall be one for two years, two for four years, and two for six years, to be determined by lot, and their terms of office shall date from the first of February, 1900. The General Assembly shall have the power to alter or amend this section.

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election every two years to fill vacancies as they
by the expiration of terms of office.

1707. Said Board shall have the power to establish
regulations as they may deem necessary for the organ-
and good government of said college, and to estab-
ch by-laws for the management thereof as shall not
nsistent with the laws of this State or of the United
to appoint Professors qualified to give instruction
itary science and of other branches of knowledge
they may deem essential, to fix their salaries and the
for which said Professors shall serve, and the said
shall have full power to confer the degree of Bach-
Science on graduates of the said college.

Powers of
Board of Vis-
itors of S. C.
Military
Academy.

Civ. '02, §
1276.

1708. The said college is open for the free educa-
and maintenance of as many beneficiary cadets as the
riation annually made therefor will allow: *Pro-*
That each County shall be entitled to at least one
iary cadet in the said college, and the Board of
rs may also receive pay cadets without expense to
ate.

Beneficiaries.

Civ. '02, §
1277.

in the event of the formation of new Counties after
portionment of beneficiary cadets has been made, no
then in the college shall be dropped in order to carry
e provisions of this law.

Provision in
case of new
Counties.

1709. The beneficiary cadets to be admitted, as pro-
in the preceding Section, shall be appointed from the
ies of the State in proportion to representation in
ouse of Representatives. They shall be required to
after graduation, for two years in the free public
s of the State.

Beneficiary
cadets; how
appointed;
obligation to
teach after
graduation;
how released
from.

Civ. '02, §
1278.

1710. Each beneficiary cadet, when he receives his
ntment, shall file, in the office of the State Superin-
nt of Education, a copy of his matriculation obliga-

Copy of ma-
trication ob-
ligation to be
filed.

Civ. '02, §
1279.

1711. Every beneficiary cadet of the Citadel, the
ary College of South Carolina, upon reporting for
and matriculation, shall file with the Superintendent
id college a bond payable to the said college in the
sum sufficient to cover the maintenance and education
may be expended in his behalf and conditioned for
ithful performance by said cadet of his matriculation

Cadet to file
bond.

Civ. '02, §
1280.

Amount.

Condition.

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Violation.

Infancy no
ar.

Provido.

Duty of
board of Vis-
itors.Civ. '02, §
281.Superinten-
ent of Edn-
ation's duty.Certificate of
disenso.Civ. '02, §
282.

agreement to teach for two years after graduation in the free public schools of this State as provided by law. If honorably discharged before the completion of his term, he shall then to teach for a period of time proportioned to the time he has been in the college. And unless the said cadet shall fulfill his said obligation as aforesaid he shall be deemed to have violated his contract, and authority is hereby given to the said college to proceed by law for the collection of the bond of such amount as may be necessary to cover the cost of the maintenance and education of said cadet as proportionately due from his failure to teach the whole or any part of the time agreed as aforesaid. And neither the infancy of the cadet executing such bond nor the Statute of Limitation shall be permitted to be pleaded in bar of the recovery of said debt: *Provided*, That the Board of Visitors of the said college may, in their discretion, exempt a beneficiary cadet to fulfill his obligation by teaching in any of the public schools or colleges of the State in which his services may be sought in like manner and under the same conditions as if he taught in the free public schools.

Sec. 1712. It shall be the duty of the Board of Visitors to report to the State Superintendent of Education, one month before the expected graduation of any beneficiary cadet, and within one month after the honorable discharge of a beneficiary cadet before graduation, the names of such cadet, and the Superintendent shall inform the Trustees of the free public schools throughout the State of the opportunity of securing teachers therefor, and shall assign such beneficiary graduates or under-graduates to the free public schools as in his judgment the interest of the State may require, preference being given in all cases to the schools of the County from which any beneficiary may have been appointed.

Sec. 1713. If in one month after the opening of the ensuing school year a graduate or under-graduate has no assignment to a school, the Superintendent may issue to such graduate or under-graduate a certificate releasing him from his obligation to teach in the public schools. If satisfactory proof made to the State Superintendent of Education by any beneficiary graduate or under-graduate that he has fulfilled his matriculation agreement by

as required, in the public schools, the said Superintendent shall grant to such graduate or under-graduate a certificate, under the seal of the State, to that effect. Upon presentation of such certificate, or either of them, to the Superintendent of the Citadel, the Military College of South Carolina, he shall cancel and deliver to such beneficiary graduate or under-graduate the bond herein required.

Sec. 1714. The Board of Visitors shall make a minute full report of the condition and management of the said College to the Superintendent of Education and to the Governor, to be by him laid before the General Assembly in and every year.

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Certificate
discharge.Cancellation
of bond.Annual
report of BoardCiv. '02,
1283.

ARTICLE IV.

WINTHROP NORMAL AND INDUSTRIAL COLLEGE OF SOUTH CAROLINA.

	Sec.
1. Establishment, name.	1719. Corporate name and powers.
2. Board of Trustees; how composed, etc.	1720. President and Professors.
3. Trustees to be furnished with certificates of election.	1721. Tuition fees.
4. Meetings of Board, etc.	1722. Degrees may be conferred, etc.
	1723. Scholarships.

Section 1715. There shall be established an institution for practical training and higher education of white girls, which shall be known as "The Winthrop Normal and Industrial College of South Carolina," and shall be located, equipped and conducted as hereinafter provided.

Sec. 1716. The Board of Trustees of the Winthrop Normal and Industrial College of South Carolina, shall be composed of the Governor of the State, the Superintendent of Education, and the Chairmen of the Committees on Education of the Senate and House of Representatives, who shall be members *ex-officio* of said Board, and seven other members, each to be elected by the joint vote of the General Assembly, as hereinafter provided.

The regular term of office of the elective members of the aforesaid Board of Trustees of the Winthrop Normal and Industrial College of South Carolina shall be six years, after the first election, in which the terms of office of those

Institution
established.Civ. '02,
1284.

Name.

Trustees
the Winthrop
Normal and
Industrial
College;
whom com-
posed; term
of office, etc.Civ. '02,
1285.

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elected therein shall be two years, two for four years, three for six years, on said Board, these terms in said Board to be determined by lot after said elections.

The terms of the elected members of said Board shall date from the first day of February, A. D. 1900; and the General Assembly shall hold elections every two years to fill vacancies as they occur in any of said Board by expiration of terms of office. In all cases where there is a vacancy in said Board of Trustees, the Governor shall be empowered to fill same by appointment until the next session of the General Assembly.

Each member of the Board shall receive as compensation for services and attendance on the meetings of the Board their actual expenses, which shall be paid out of the funds of the institution. There shall be at least two regular meetings of the Board each year.

Secretary of
State to notify
Trustees.

Div. '02, §
16.

If he fail to
accept, his
election void.

Sec. 1717. The Secretary of State shall furnish a certificate to each Trustee within ten days after his election, notifying him that he has been so elected, and if any Trustee fail for the space of thirty days to inform the Governor of his acceptance, then his election shall be void, and his place shall be filled as heretofore provided in cases of vacancy.

Meeting of
Board.

Div. '02, §
17.

Quorum.

Failure to at-
tend; penal-

Sec. 1718. The first Board of Trustees shall convene within ten days after the adjournment of the Legislature for organization and for the transaction of business. A majority of said Board shall constitute a quorum. Whenever any member of the said Board has failed to attend successive meetings of said Board without rendering an excuse which is satisfactory to and accepted by the Board, his place shall be declared vacant by the Board and shall be filled as heretofore provided.

Incorporation.

Div. '02, §
18.

name.

Corporate
powers.

Property
rights.

Sec. 1719. The Board of Trustees of the South Carolina Industrial and Winthrop Normal College are hereby created a body corporate by the name and style of "The Trustees of the Winthrop Normal and Industrial College of South Carolina," and shall by said name have perpetual succession of officers and members, the right to use and keep a common seal, and the same to alter at will; and may sue and be sued, contract and be contracted with, and may purchase, sell and convey property, both real, personal and

fixed, and are authorized and empowered to receive and hold donations, devises, bequests and legacies for the use and benefit of the said institution: *Provided*, That all property purchased under the authority of this Article shall be free from liens and incumbrances, and title to the same as well as to any donations that said Board may receive shall be taken in the name of the Trustees in their corporate capacity, and shall become the property of the State of South Carolina. They shall have full power and authority, from time to time, to make, constitute and establish such by-laws, rules and orders, not inconsistent with the laws of the land, as to them shall seem necessary and convenient for the better regulation, government, well-ordering and directing of themselves as Trustees as well as the Winthrop Normal and Industrial College of South Carolina, and all officers, teachers or other persons by them employed in and about the same, and all pupils in the said institution. They shall possess all the power necessary for the accomplishment of the trust committed to them, viz: The establishment, conduct and maintenance of a first-class institution for the thorough education of the "white girls" of South Carolina, the main object of which shall be (1) to give to young women such education as shall fit them for teaching; (2) to give instruction to young women in stenography, typewriting, telegraphy, bookkeeping, drawing, (free hand, mechanical, architectural, etc.,) designing, engraving, sewing, dressmaking, millinery, art needlework, cooking, house-keeping, and such other industrial arts as may be suitable to their sex and conducive to their support and usefulness. Said Trustees shall have authority to add, from time to time, such special features to the institution and to open such new departments of training and instruction therein as the progress of the times may require.

Sec. 1720. The Board of Trustees shall appoint a President and Professors of said institution, and such other officers as they may think proper to put the same in successful operation. They shall fix all salaries and wages of teachers and employes. The President selected by them shall attend every meeting of the Board for consultation and to give information concerning the institution. The Board, aided by the President, shall divide the course of

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Provide as to incumbered property.

To be State property.

By-laws.

Powers in trust.

Main objects.

Additional special features.

President and professors.

Clv. '02, § 1289.

Other officers. Salaries, etc.

President to attend meetings.

Departments.

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study and instruction into departments, so as to s
thorough education and the best possible instruction.
girl shall be allowed to take a course in said instit
who does not receive instruction in at least one indus
art.

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in fees.

'02. §

Sec. 1721. The tuition charge for students shall be :
(\$40) dollars a session: *Provided*, Students shall be adm
free of tuition charges who are not able to pay their tui
as ascertained and determined by the Board of Trustee

ea.

'02. §

Sec. 1722. The said Trustees are authorized and emp
ered to confer degrees and grant diplomas to all per
who satisfactorily complete the prescribed courses of s
and training in said institution, and a diploma from
Normal Department shall entitle the holder to teach in
of the public schools of the State as first grade tea
without further examination.

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'02. §

Sec. 1723. The Board of Trustees of the Wint
Normal and Industrial College shall have the authorit
assign the scholarships provided for that institution
the General Assembly so that there may be given
County as many scholarships as such County is entitle
members in the House of Representatives at forty-
dollars each. These scholarships shall be awarded u
competitive examination by the State Board of Educat
Provided, however, That before competing for said scho
ships, the applicants shall make to the Board of Trus
proof, upon certificate of Auditor and Treasurer of t
respective Counties, of their financial inability to att
college, and shall receive from said Board permission
enter the competitive examination.

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ARTICLE V.

THE COLORED NORMAL, INDUSTRIAL, AGRICULTURAL AND MECHANICAL COLLEGE OF SOUTH CAROLINA.

Sec.
 1724. Establishment; Board of Trustees; how composed, etc.
 1725. Duties and powers of Trustees.
 1726. Separation from Claflin University; rights and privileges.

Sec.
 1727. Trustees to provide buildings and professors, etc., and arrange courses of study.
 1728. Quorum of Board of Trustees.
 1729. Land Scrip Fund.
 1730. Public land funds under Act of Congress.

Section 1724. There shall be established within this State a Normal, Industrial, Agricultural and Mechanical College for the higher education of the colored youth of the State, and the said college shall be known as the Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina.

Establishment of the Colored Normal, Industrial and Mechanical College of South Carolina.

Civ. '02, § 1293.

The Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina shall be under the management and control of a Board of Trustees, composed of seven members, six of whom shall be elected by the General Assembly, whose term of office shall be six years. But the General Assembly shall at its present session elect two of said Trustees for two years, two for four years, and two for six years, so that two of them shall go out of office every two years. The Governor of the State shall be *ex officio* the seventh member of said Board of Trustees.

A branch of the S. C. University; Trustees of, etc.

Sec. 1725. The Board of Trustees of the Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina are hereby fully authorized and empowered to take charge of, manage and control all of the real and personal property belonging to Claflin College, in whosoever hands or custody the same may be now or hereafter found, and shall hold the same in trust for the benefit and uses of the said Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina.

Duties and powers of Trustees.

Civ. '02, § 1294.

Sec. 1726. The Board of Trustees of the Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina shall have and are hereby given full and ample power to do and to perform any and all acts whatsoever necessary to effect a complete and final separation of the

To separate college from Claflin University.

1909, XXVI, 213.

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interests of the State from those of Claflin University in the continued management of affairs of said college whenever it is found necessary to protect or to promote the interests of the State or whenever the Trustees determine it to be right and proper or expedient for any reason, the authority here given shall authorize said Trustees to sell, purchase or exchange real estate. And the said Trustees shall determine the time and duration of all vacations to be given to the students of the said institution. The Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina shall have all the rights and privileges possessed heretofore by Claflin College and be entitled to receive the funds set apart for the support of Claflin College under the Acts of the General Assembly of this State, and the said college shall forever be, and remain, free and separate from Claflin University and all other colleges, schools or other institutions which are wholly or in part under the direction or control of any church or religious or sectarian denomination or society.

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— **Sec. 1727.** The Board of Trustees of the Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina are authorized and empowered to provide and erect necessary suitable buildings upon a proper site for the purpose; to establish a course of study covering the normal, industrial, agricultural and mechanical sciences, and to provide the necessary appliances for proper instruction in the same; and to select a proper corps of professors and instructors and fix their salaries. The Principal or President and corps of instructors shall be of the negro race.

— **Sec. 1728.** A majority of the Board of Trustees shall be authorized to execute all business necessary for the transaction of any business.

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— **Sec. 1729.** One-half of the fund known as the Normal Scrip Fund, to wit: ninety-five thousand and nine hundred dollars, shall be for the benefit of the Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina, and shall be a perpetual fund, which shall forever remain undiminished, and the Board of Trustees shall be authorized to use the income thereon, to wit: six per cent per annum, payable semi-annually, from July 1st, 1889, for the use and maintenance of said college.

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Sec. 1730. All sums which shall be received by the State from the United States government under the provisions of the Act of Congress, approved August 30, 1890, entitled, "An Act to apply a portion of the public lands to the more complete endowment and support of colleges for the benefit of agriculture and mechanical arts established under the provisions of an Act of Congress approved July second, eighteen hundred and sixty-two," shall be equally divided between the Colored Normal, Industrial, Agricultural and Mechanical College and the Clemson Agricultural College, to be applied to the purposes specified in said Acts.

To have half
of Public
Land Fund,
under Act of
Congress:
how applied.

Civ. '02. §
1299.

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CHAPTER XXVI.

The Clemson Agricultural College.

- Sec.
 1731. Acceptance of Clemson devise and bequest.
 1732. Agricultural and Mechanical College established; name, location and studies.
 IVIII. Board of Trustees; how composed, duties.
 1734. Corporate name, powers, etc.
 1735. Two-thirds vote required for expenditures.
 1736. Annual report of Board as to college.
 1737. Funds of Clemson bequest to be invested by State Treasurer.
 1738. Investment in State bonds, etc.
 1739. Land Scrip Fund.
 1740. Hatch Fund for Experiment Station.
 1741. Department and Commissioner of Agriculture abolished.
 1742. Powers and duties devolved on Board of Trustees.

- Sec.
 1743. Meetings of Board; etc.
 1744. Duties and powers of Board.
 1745. May construct railroad.
 1746. May lease same.
 1747. May construct and maintain tramways, etc.
 1748-49. Duties of Veterans of college.
 IVIII. Privilege tax on fertilizers.
 1751. Clemson College a municipal corporation.
 1752. To be governed by Board of Trustees.
 IVIII. Powers of Trustees to sell land.
 1754. Powers of Trustees to appoint constables.
 1755. No power to levy taxes.
 1756. Annual report to General Assembly as to all things.
 1757. Scholarships.
 1758. How awarded.
 1759. Examinations; how conducted.
 1760. Proof of financial statement.
 1761. How scholarships paid.

Acceptance
of the Clem-
son devise and
bequest.

Civ. '02, §
1800.

Section 1731. The Honorable Thomas G. Clemson, having departed this life on the sixth day of April, A. D. 1890, leaving of force his last will and testament, which was admitted to probate on the twentieth day of April, 1890, in the office of the Judge of Probate for the County of Oconee in the State of South Carolina, wherein he devised and bequeathed to his executor, Richard W. Simpson, of Oconee, South Carolina, a tract of land situate on the Oconee River, in Oconee County, in said State, containing one hundred and fourteen acres, more or less, known as the Fort Hill plantation, as well as all his other property, real and personal, except certain legacies in the same mentioned and provided for, all in trust to convey the same to the State of South Carolina when the said State shall determine the same for the purpose of establishing and maintaining an Agricultural and Mechanical College upon the said Fort Hill plantation upon the terms and con-

A. D. 1812.

said will, the State of South Carolina hereby expressly declares that it accepts the devise and bequest of Thomas Clemson subject to the terms and conditions set forth in said last will and testament, and the Treasurer of the State is hereby authorized and empowered to receive and securely hold the said property, both real and personal, and to execute all necessary papers and receipts therefor as soon as the said executor shall convey and transfer the said devise and bequest to the said State.

Sec. 1732. The deed and transfer of said property to the State having been duly executed and made by the said executor, in accordance with the provisions of said will, an Agricultural and Mechanical College is hereby established in connection with the aforesaid devise and bequest, to be styled "The Clemson Agricultural College of South Carolina," and situated at Fort Hill, in Oconee County, on the plantation so devised; in which college shall be taught all branches of study pertaining to practical and scientific agriculture and other industries connected therewith, and such other studies as are not inconsistent with the terms of the said will.

Sec. 1733. The said college shall be under the management and control of a Board of thirteen Trustees composed of the seven members nominated by said will and their successors and six members to be elected by the Legislature in joint assembly.

Three of the Trustees elected in 1808 shall serve for the term of two years, and three of said Trustees shall serve for the term of four years, from the commencement of their terms and until their successors shall be elected, and the said six trustees, immediately after their election, shall cast lots to determine which three of said Trustees shall serve for the term of two years and which three shall serve for the term of four years. Hereafter every two years the General Assembly shall elect in joint assembly three Trustees for said college, who shall serve for the term of four years and until their successors shall be elected and shall qualify.

The Board of Trustees shall elect one of their number to be President, and elect a Secretary and fix his salary. They shall organize the college and put it in operation as soon

Agricultural and Mechanical College established: name and location and branches of study.

(iv. '02. § 1801.

College to be under control of Board of Trustees; how elected, term of office, etc.

(iv. '02. § 1802.

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	as practicable after the passage of this Act; shall p the course of study, shall declare the professorships, e professors, of whom the number shall not exceed t define their duties and fix their salaries, and make a and regulations for the government of the college. may employ such superintendent, head workman, l for the farm, shops and grounds as may be necessa fix their compensation. They shall charge each stu tuition fee of forty dollars per annum: <i>Provided, h</i>
dition.	The Board of Trustees of said Clemson Agricultur
Who may be anted tui- in free.	lege may grant free tuition to such competent and de youths of this State as may be unable to pay the sar the said Board of Trustees shall prescribe such ru regulations as may be proper to confine the enjoyn this privilege to those whose necessities require it.
incorporation d powers.	Sec. 1734. The said Board of Trustees is hereby d
Civ. '02. § 43.	to be a body politic and corporate, under the name an of the Clemson Agricultural College of South Ca They shall have a corporate seal, which they may cha
Property rights.	their discretion; and in their corporate name they ma tract for, purchase and hold property, for the purp this Article, and may take any property or money g conveyed by deed, devise or bequest of said colleg hold the same for its use and benefit: <i>Provided, Th</i>
reviso.	conditions of such gift or conveyance shall in no c inconsistent with the purposes of this Chapter, and incur no obligation on the part of the State. They
Investment funds.	securely invest all funds and keep all property whic come into their possession, and may sell any of the pe property not subject to the trust, and reinvest the sa such way as they may deem best for the interest o college. They may sue and be sued, and plead a
Other pow- s.	impleaded, in their corporate name, and may do all
y-laws.	necessary to carry out the provisions of this Chapte may make by-laws for this purpose if they deem it sary.
Expenditure moneys.	Sec. 1735. It shall require a two-thirds vote of th Board of Trustees to authorize the expenditure o
Civ. '02. § 04.	moneys appropriated to the said college by the State authorize the sale or transfer or reinvestment of any
And sale of operty	

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or moneys arising from the sale of any property under provisions of this Chapter.

c. 1736. It shall be the duty of said Board of Trustees to make to the Legislature an annual report of the college, of all farming operations and tests and experiments, of all receipts and expenditures, with a statement of the condition of the property and funds of said college, and of receipts and expenditures of money appropriated thereto by the State.

Annual report by the Board.

Civ. '02, § 1305.

c. 1737. The State Treasurer shall securely invest and invest the funds now in his hands, and such as may hereafter come into his hands, derived from the Clemson bequest in such manner as shall be directed by the Governor, the Comptroller-General and the Treasurer of the State, or any two of them. He is hereby authorized to collect the interest annually upon all investments made of funds of the Clemson bequest, and pay the same over to the Treasurer of the Board of Trustees of Clemson Agricultural College. It shall be his duty, under the direction of the Governor, the Comptroller-General and the Treasurer of the State, or any two of them, to enforce the collection of the principal or interest on any investments made of such Clemson bequest.

State Treasurer to invest funds of Clemson bequest, and pay the annual interest to Treasurer of Board.

Civ. '02, § 1306.

c. 1738. The State Treasurer is hereby authorized and empowered to collect by suit or otherwise, or to sell and convert into money, all the evidences of indebtedness now held by him and which was turned over to him as a part of the Clemson bequest, and that when he shall have received the money on same that he invest the same in Brown Consols, bearing interest at six per cent. per annum. When said funds are invested in said Brown Consols, as provided for in this Section, then the State Treasurer shall issue a certificate of State stock in a sum equal to the value of said Brown Consols, bearing interest at the rate of six per centum per annum, payable semi-annually, to the Board of Trustees of the Clemson Agricultural College, to be held as a perpetual fund, the capital of which shall forever remain undiminished, the interest on same to be used by said Board of Trustees for the uses of said Clemson Agricultural College; and when the said State stock is so issued, he do then cancel the said Brown Consols in the place of which the said State stock was issued.

State Treasurer to collect and invest in Brown Consols; certificate of stock; Trustees to hold as perpetual fund, Brown Consols.

Civ. '02, § 1307.

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One-half of
Land Scrip
Fund vested
in Trustees of
College; State
stock issued
therefor: how
to be held and
how income
to be applied.

Civ. '02, §
1308.

Sec. 1739. One-half of the Land Scrip Fund hereby vested by Section 1045 of the General Statutes (1887) in the Board of Trustees of the University of South Carolina is hereby vested in the six members of the Board of Trustees of the Clemson Agricultural College of South Carolina elected by the General Assembly; and the State Treasurer is authorized and required to issue a certificate of stock in the sum of ninety-five thousand nine hundred dollars, bearing interest at the rate of six per centum annum, payable semi-annually, to the said six members of the said Board of Trustees, to be held as a perpetual fund, the capital of which shall forever remain unimpaired, the income of said fund to be used by said Board of Trustees for the building and maintenance of the said Clemson Agricultural College, in accordance with the purposes for which the said Land Scrip was donated by the Congress in relation thereto.

See Section 1209, *ante*, as to the division of the public land funds among the Colored Normal, Industrial, Agricultural and Mechanical Colleges of South Carolina, and Clemson Agricultural College.

Hatch Fund
vested in the
Trustees of
College for
support of
Experiment
Station.

Civ. '02, §
1309.

Sec. 1740. The annual grant of fifteen thousand dollars commonly known as the Hatch Bill fund, made to the State of South Carolina by the Congress of the United States according to the terms of an Act of Congress entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several States," the provisions of an Act approved July second, eighteen hundred and sixty-two, and of the Act supplementary thereto approved March 2d, 1887, shall be and hereby is, withdrawn from the control of the Board of Trustees of the University of South Carolina, in whom it was vested by an Act entitled "An Act to amend Chapter XX of the General Statutes of South Carolina," approved December 22, 1887; and the said grant of fifteen thousand dollars is hereby vested in the six members of the Board of Trustees of the Clemson Agricultural College of South Carolina chosen by the General Assembly; and an agricultural experiment station shall be established in connection with the said Clemson Agricultural College, and under the direction of the Board of Trustees thereof, to be supported

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the said grant according to the provisions of the Act of Congress hereinbefore mentioned.

Sec. 1741. The Department of Agriculture of this State, heretofore constituted and provided for by law, is abolished, and also the office of Commissioner of Agriculture for this State. Departm
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abolished.

Sec. 1742. All the powers, duties, rights and privileges heretofore vested in and exercised by the Commissioner of Agriculture and the Department of Agriculture of this State are hereby vested in and devolved upon the Board of Trustees of the Clemson Agricultural College of South Carolina, except that said Board shall not have any rights, powers or privileges in reference to or in connection with the management and control of the rights and interests of the State in the phosphate rock or phosphatic deposits in the navigable streams and marshes thereof. Civ. '02
1310.
Powers &
duties of,
vested in
Trustees
Clemson C
lege; exc
tion.

Sec. 1743. For the purpose of carrying out the duties hereby devolved upon them, the said Board of Trustees shall meet at the call of the Governor, and at such time and place as he may designate. They shall receive no compensation, but shall be allowed their actual expenses, for not exceeding two meetings in one year, while engaged in the duties of the board imposed upon them by this Article. Civ. '02
1311.
Meeting
Board;
moneration

Sec. 1744. The duties and powers of the said Board of Trustees are as follows: Duties &
powers
Board.

1. They shall regulate the returns of such County agricultural societies as may be chartered by the State, prescribe the forms of such return, and furnish all blanks necessary for securing uniform and reliable statistics of their operations. Civ. '02
1312.

2. They shall issue to the several County Auditors of the State, blanks, with complete instructions, for the collection of agricultural statistics and information. The Auditors shall promptly return such blanks to the Board, filled in accordance with such instructions.

3. They shall investigate all subjects relating to the improvement of the agricultural interests of the State, the inducement of immigration thereto, and the introduction of foreign capital therein, as they may deem expedient.

4. They shall have the right to promulgate and enforce rules and regulations, for the guidance of the Veterinarian 1901, XXI
737.

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of said college, or his assistant, if one shall be appointed for the treatment of horses, mules, cattle, hogs, or other stock affected with any dangerous or contagious disease.

5. The said Board shall have the power to adopt orders and regulations, consistent with the laws of this State and of the United States, to prevent the introduction into this State of any live stock, that is affected with any contagious disease, the tendency of which is to cause the death of live stock.

6. They shall have power, in case of contagious disease among any kind of stock or animals, either to establish a system of quarantine or to have the infected animals killed and burned.

7. Said Board, or a committee thereof, appointed by them, shall supervise and enforce the execution of all laws respecting the sale of commercial fertilizers and seeds within this State, and any other duties by this Chapter devolved upon them.

8. They shall appoint a special inspector or inspectors of fertilizers, and such other persons as they may deem necessary for carrying out the duties of the Department of Agriculture, hereby devolved upon them, and fix their compensation.

9. They shall collect samples of any commercial fertilizers offered for sale in this State and cause the same to be analyzed. Such samples must be taken from at least ten per cent. of the lot analyzed.

10. They shall prepare and keep in their department books of registry in which any person may cause to be entered any tract or lot of land which he may desire to sell, stating the terms of sale. And such person may file also a plat or other descriptive paper relating to such lands as he may think proper. They shall also keep books in which shall be entered the names of persons desiring employment as laborers. The registry fee for each tract of land, or for each person seeking employment, shall be one dollar. The books shall be open to inspection free of charge.

11. They shall communicate and co-operate with the Commissioner of Agriculture of the United States, and receive from him seeds, plants, documents and information.

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and shall distribute the same as may seem to the best advantage.

12. They shall have power to hold agricultural conventions composed of delegates from each County in the State, to be apportioned to each County and elected in such manner as the Board may provide; and to conduct farmers' institutes at such times and places as may appear expedient; and they are authorized to use such parts of the funds under their control as may be necessary to meet the expense of conducting such conventions and institutes, but no compensation, per diem or mileage shall be paid to the delegates of such conventions.

See Section —, *ante*, as to State Entomologist and State Board of Entomology.

13. The authorities of Clemson Agricultural and Mechanical College are hereby authorized and required to detail one of its scientific agriculturists to pay frequent visits to the coast section of the State, and to examine the soils, present methods of cultivation, fertilization, irrigation, etc., and to make practical tests, on some selected section, of Sea Island cotton, rice and truck farms, with various varieties of seeds, and to follow the same up carefully during the preparation of the land, planting of seed and cultivation and harvesting of same, and also to examine into the diseases of cotton, rice, truck, etc., which have caused much trouble and loss in that section. That it shall be the duty of the planters and farmers of the section so visited to render hearty assistance and co-operation in every way in their power to the gentlemen detailed under the provisions of this Section.

Authorities of Clemson College to conduct experiments, etc., in coast region. To be added as subdiv. 13 to Civil Code, § 1313.

Sec. 1745. The Clemson Agricultural College of South Carolina is hereby authorized and empowered to construct, maintain and operate a railroad between the Clemson Agricultural College of South Carolina and Calhoun Station, on the line of the Atlanta and Charlotte Air Line Railway, with all the rights, powers, duties and privileges that are conferred and imposed by the laws of this State upon railroad companies.

Clemson College may construct railroad. Civ. '02, § 1314.

The said Clemson Agricultural College of South Carolina, for the purpose of the construction of said railroad, shall be entitled to all the rights and privileges (and be subject to all the liabilities of railroad corporations) embraced in

Powers and rights of.

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what is called the "General Railroad Law," and amendatory thereof, as well as any Acts now existing hereafter to be passed, regulating the duties, privileges and rights of railroad companies.

Sec. 1746. After construction of said railroad the Clemson Agricultural College of South Carolina, for purpose of operating the same, is empowered to lease in any lawful manner, the said railroad to any railroad company upon such terms as may be mutually agreed upon; and may enter into any agreement with any railroad company for the operation of the same.

Sec. 1747. The said Clemson Agricultural College of South Carolina is authorized to construct and maintain tramways, macadam roads, electric roads, and such highways within the incorporation as the Board of Trustees may deem expedient for the improvement and development of the corporation, and to this end shall have all the powers, privileges and rights conferred by Sections 1745 and 1746.

Sec. 1748. The Veterinarian of said college shall have the right to visit any section of this State, where contagious diseases among animals is believed to exist, and to determine, under the rules and regulations of said Board, whether such affected animals are worthy of remedial treatment or should be destroyed. It shall not be lawful for any person or persons to hinder or obstruct said Veterinarian or his assistant, in the enjoyment of the rights given by this Section, or in the discharge of the duties prescribed by the next succeeding Section.

For penalty of such obstruction, see Criminal Code.

Sec. 1749. When two or more reputable citizens, of any County in this State, shall notify said Veterinarian that any animals in their County are affected with a contagious disease, the tendency of which is to cause the death of such animals, he shall investigate the same, or cause an investigation thereof to be made; and for such purpose, he, or his assistant, shall have the right to go upon any premises where such affected animals are, or where they are supposed to be. Said Veterinarian shall have the right to examine such affected animals, at the expense of the owner or owners of the same, or shall have the right to cause the

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destroyed, under such rules and regulations as may be prescribed by the said Board. No compensation shall be paid the owner or owners of any animals destroyed under the provisions of this Section. The necessary expenses incurred by the Veterinarian or his assistant in the discharge of the duties prescribed in this Chapter, shall be paid from the funds of Clemson College.

Sec. 1750. All the privilege tax on fertilizers heretofore required to be paid to the Commissioner of Agriculture shall in the future be paid to the Treasurer of the State, subject to the order of the Board of Trustees of the Clemson Agricultural College of South Carolina; and so much of the money so received as shall be necessary to defray the expenses of the Board in performing the duties now by this Chapter devolved upon them shall be thus used, and the balance shall go to the said college, for its erection and maintenance.

Privilege tax to be paid to State Treasurer subject to order of Board; how to be applied.

Civ. '02, § 1819.

Sec. 1751. A municipal corporation is hereby created, known as Clemson College, the limits of which shall consist of all the lands belonging to the said college and cover all the territory included in a circle formed with the college building as a centre, with a radius of five miles, thus making the diameter of the circle ten miles, within which boundaries the jurisdiction of the corporation shall extend. No dispensary shall ever be located at Calhoun.

Clemson College incorporated.

Civ. '02, § 1820.

Sec. 1752. 1. The Board of Trustees of Clemson College and their successors in office shall have perpetual control and direct the affairs of said corporation.

Board of Trustees.

Civ. '02, § 1821.

2. The said Board, by a majority vote, shall have the power, and it is made their duty, to recommend a suitable person as Police Magistrate, who shall be commissioned by the Governor, and who shall exercise all the powers of a Magistrate and of a City Recorder in punishing offenses against the law, or against the Ordinances of the said Board of Trustees. But said Magistrate shall not have jurisdiction in Pickens County.

Police Magistrate.

The said Board of Trustees shall have authority, and it shall be their duty, to make such rules for the maintenance of order and provide such punishments, within the jurisdiction of a Magistrate, by fine or imprisonment, or both, as

Penalties.

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will keep the territory within their jurisdiction free from nuisances and enforce the police regulations of the State.

Sec. 1753. The Board of Trustees of the Clemson Agricultural College are authorized and empowered to make by-laws as they deem proper to license or prohibit the sale of goods, wares and merchandise of any kind whatsoever on the grounds belonging to the said college as are not inconsistent with the laws of the State.

Sec. 1754. That the said Board shall have authority to appoint one or more special Constables, who shall exercise all the power of a State Constable or of a municipal constable, to enforce obedience to its ordinances and to the laws of the State.

Sec. 1755. That nothing contained in Sections 1752 and 1753 shall give said Board of Trustees the right to levy or collect any tax.

Sec. 1756. A report of all their proceedings under this Chapter shall be made, annually, by the Board to the General Assembly.

Sec. 1757. There are hereby established and created one hundred and sixty-seven (167) beneficiary scholarships at the Clemson Agricultural College of South Carolina. Each of said scholarships shall be of the value of one hundred dollars per annum, and shall be apportioned and distributed among the several Counties of the State in the manner as the members of the Senate and House of Representatives are apportioned, so that each County shall have as many scholarships as such County is entitled to have in the Senate and House of Representatives.

Sec. 1758. Said scholarships shall be awarded by the State Board of Education, upon the recommendation of the County Board of Education of the several Counties, to the most worthy and needy young men of such age as shall be determined by the Board of Trustees of said College for other scholarships who shall have passed an approved entrance examination upon the common school branches and made at least seventy per cent. upon such examination; and preference shall be given to those young men who desire to take the agricultural course and the textile courses: *Provided*, That not more than one scholarship from each County shall be open for the textile course.

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Sec. 1759. The examinations for the award of these scholarships shall be conducted in the following manner: Manner of conducting examinations. The questions for such examinations shall be prepared by the President or some member or members of the Faculty of the said Clemson Agricultural College, under the direction of the President, and shall be forwarded to the respective County Boards of Education on or before the 15th day of July in each year, together with a statement showing the number of vacant scholarships to which each County is entitled. The said County Boards of Education shall hold the said examinations by numbers, i. e., by requiring each applicant to draw a number from a miscellaneous collection of numbers furnished by said County Boards. Each applicant shall then seal his name in an envelope, which shall be kept sealed by said County Boards of Education. The applicants shall then put their numbers and not their names on their papers. The papers shall be forwarded to the President of Clemson College and the members of the Faculty of that institution who may be designated by the President thereof, shall examine the papers and return the marks of the applicants to the County Boards of Education by the numbers as furnished to said Faculty. The County Boards of Education shall then open the envelopes containing the names and make recommendations as to the award of the scholarships to the State Board of Education.

Sec. 1760. That before applying for the said scholarships applicants shall make proof, under oath, to their respective County Boards of Education, as required by law for scholarships in the South Carolina Military Academy, of their financial inability to attend college, before they shall receive from said Board permission to stand such examination. Proof of financial standing.

Sec. 1761. That the said scholarships shall be paid from the regular income of said Clemson Agricultural College, as now provided by law, and shall each continue for the term of four years, or for such length of time as the beneficiary shall be able to maintain himself and comply with the rules of the College; and the said sum of one hundred dollars per annum shall be placed to the credit of each of said beneficiaries and applied towards the payment of his board and other necessary school expenses. How scholarships paid.

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CHAPTER XXVII.

South Carolina Institute for the Education of the
Dumb and Blind.

Sec.

1762. Board of Commissioners of.
1763. Duties and powers of the Board.
1764. Superintendent; how elected.
1765. Duties and powers of.
1766. Meetings of Board.
1767. Report of Board.

Sec.

1768. All deaf mutes and blind persons admitted.
1769. Expenses of applicants.
1770. Expenses of pupils.
1771. May provide for higher education of graduates.

Board of
Commission-
ers of

Civ. '02. §
1826.

Section 1762. The Board of Commissioners for the South Carolina Institution for the Education of the Deaf and Dumb and the Blind shall consist of the State Superintendent of Education, the Chairmen of the Committee of Education of the Senate and House of Representatives, shall be *ex officio* members, and two others to be by appointment, with the powers and duties hereinafter ascribed. The said Board shall be allowed actual expenses for not more than two meetings in each year, to be upon warrant of the Comptroller-General out of any fund not otherwise appropriated.

Duties and
powers of the
Board.

Civ. '02. §
1827.

Sec. 1763. The Board of Commissioners are vested with the supervision and control of affairs and government of said institution, with power to regulate salaries of officers and teachers, to establish conditions, forms, and regulations for the admission of pupils therein, and to prescribe rules and by-laws as in their judgment shall be necessary for the management and good government thereof.

Superinten-
dent; how
elected.

Civ. '02. §
1828.

Sec. 1764. The Superintendent of said institution shall be elected by said Board of Commissioners, and shall be the immediate executive head of the institution, and shall be responsible to the Board of Commissioners.

Duties and
powers of

Civ. '02. §
1829.

Sec. 1765. The Superintendent shall nominate all subordinate officers and teachers, subject to the approval of the Board of Commissioners; he shall be the official medium of communication between the Board and subordinate officers and employees; shall make all regulations of internal police; shall authorize the purchase

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nary supplies, and shall examine and certify to the correctness of all bills of such supplies.

Sec. 1766. The Board of Commissioners shall elect a Chairman and Secretary from their number, and shall meet annually on the first Wednesday in August at the institution, and at such other times and places as the Chairman of the Board shall direct. The Board of Commissioners shall receive no compensation for their services.

Sec. 1767. The Board of Commissioners shall draw the annual appropriations as made by the Legislature for the support and maintenance of said institution, and shall annually report to the Legislature a statement of their various acts and doings during the past year, showing exactly how they disbursed the money received and expended, and file vouchers covering the same in the office of the Comptroller-General.

Sec. 1768. All deaf mutes and blind of the State who are of proper age and mental capacity (each case to be decided by the Board of Commissioners) shall be admitted to the benefits of the institution.

Sec. 1769. The whole or part of the expenses of the several applicants shall be paid, according to the opinion which the Commissioners may form as to the pecuniary condition of the applicants; and in case of more applications than would exhaust the annual appropriation, the Commissioners shall make selection according to their opinion of the deserts of the various applicants.

Sec. 1770. The sum which shall be allowed for the board, tuition and all incidental expenses of one deaf and dumb or blind person for one year, shall not exceed one hundred and fifty dollars, not including herein traveling expenses, clothing and medical attendance, which the Commissioners shall place upon the most economical scale.

Sec. 1771. The Board of Commissioners of the School for the Deaf and Dumb and Blind may, upon the recommendation of the Superintendent and Faculty, appropriate one hundred and fifty (\$150.00) dollars annually to provide for the higher education of any graduate thereof, matriculating in any special or regular course offered in any chartered college.

The Board shall make suitable regulations for such students, but not more than four graduates shall be thus graduated in any one year.

Meetings of Board.

Civ. '02, § 1330.

Reports of Board.

Civ. '02, § 1331.

All deaf mutes and blind persons admitted.

Civ. '02, § 1332.

Expenses of applicants.

Civ. '02, § 1333.

Expenses of pupils.

Civ. '02, § 1334.

School for Deaf, Dumb and Blind may provide for higher education of any graduate.

1910, XXVI, § 17.

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TITLE X.

Of Ways, Bridges, Ferries, Dams and Drains, General Law.

CHAPTER XXVIII. *Of Highways, and of the Repairs of Highways and Bridges.*CHAPTER XXIX. *Of Water Courses and Cuts.*CHAPTER XXX. *Of Bridges, Turnpikes, and Ferries.*CHAPTER XXXI. *Of the Saluda Mountain Road.*CHAPTER XXXII. *Of Dams and Drains, and Drains in Certain Counties.*CHAPTER XXXIII. *General Stock Law and Fencing.*

CHAPTER XXVIII.

Of Highways.

Sec.

1772. Navigable streams declared to be.
 1773. Repairs of highways and bridges; contracts for; advertisement.
 1774. Highway districts.
 1775. Free ferries; hours open.
 1776. Highways and ferries.
 1777. Width of roads; new roads; surveyor; right-of-way; notice; hearing; decision; payment for right-of-way; how roads shall be worked.
 1778. Road Superintendent Georgetown County; attorney in Clarendon County.
 1779. Removal of road hands after working road.
 1780. Duty of road hands warned to work road.
 1781. Residence; where.
 1782. Overseers to account for tools; labor performed.
 1783. To turn over property to successor.

Sec.

1784. Foot paths and bridges over streams.
 1785. Guide finger-boards.
 1786. What County Commissioners shall furnish; penalty for unlawful use of tools.
 1787. May hire laborers.
 1788. Unlawful to work on public roads.
 1789. Obstructions in road removed.
 1790. Penalty; liability for.
 1791. By corporations and individuals.
 1792. Drainage not to be obstructed.
 1793. Railroad crossing.
 1794. Chain gang on contract.
 1795. Division of highway into sections; road hands.
 1796. Duties and powers of Commissioners.
 1797. Duties where contract is adopted.

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3. Credit for road hands under contractor.
 4. Levy special taxes; list of hands.
 5. Use of chaingang.
 6. How commutation tax applied.
 7. Duties of County Commissioners with respect to bridges.
 8. Bridges over waters between two Counties.
 9. Owners of mill dams and bridges to keep them in repair.
 10. Special tax; how expended.
 11. Protection of private railroad crossings.
 12. Supervisors may cut trees near roads.
 13. Gates on private roads.
 14. Gates on public highways.
 15. Construction of gates.
 16. Ditches across highway; when may be cut.
 17. Unlawful diversion of highway; duty of Commissioners as to.
 18. Performance of road duty in towns and villages.
 19. Damages from defective highways.
 20. Tender before trial; effect of refusal.
 21. Commutation or road tax.
 22. Exemptions from road duty.
 23. Road duty; who to perform; number of days.
 24. Commutation tax.
 25. Return for road tax in certain Counties.
 26. Special tax in Chester County.
 27. Township Supervisors therein; duties.
 28. Funds: how spent.
 29. Compensation.
 30. Compensation of road overseers.
 31. Treasurer to keep ledger of road taxes.
 32. Chaingang.
 33. Separate township accounts.
 34. Special tax in Chesterfield County.
 35. Work under contract.
 36. Township Commissioners of roads.
 37. Their duty.
 38. Salary.
 39. Special tax.
 40. Claims.

Sec.

1836. How road work shall be done in Clarendon County.
 1837. Contracts for road work.
 1838. Commissioners may direct Supervisor where to work roads.
 1839. Also appoint road overseers.
 1840. Road overseers in Colleton County.
 1841. Commutation tax may be worked out.
 1842. May borrow.
 1843. Road engineer to be employed.
 1844. Duty.
 1845. Commutation tax.
 1846. How roads to be made.
 1847. Repair of roads.
 1848. Commissioners in Darlington County may work roads as they deem best.
 1849. Road hands to be summoned.
 1850. How commutation tax shall be spent.
 1851. Report of expenditures to be published.
 1852. Employment of chaingang in Edgefield County.
 1853. Contracts for road work.
 1854. Special tax for roads.
 1855. Width of roads.
 1856. Commutation tax to be spent in township in which collected.
 1857. Highways in Fairfield County.
 1858. Work to be let by bid.
 1859. How work paid for.
 1860. Penalty for failure to do work.
 1861. When roads may be worked by County.
 1862. Tax list.
 1863. Road fund.
 1864. Supplies to be let to lowest bidder.
 1865. Special tax in Hampton County.
 1866. Work under contract.
 1867. Lancaster County may employ road engineer to lay out roads.
 1868. Repairs to be let to lowest bidder.
 1869. Clerk of Board to keep accounts.
 1870. Auditor to enter road tax.
 1871. Moneys to be paid by Treasurer.
 1872. His compensation.
 1873. Duty of road engineer.

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report total tax.	Sec.
or paid.	1894. Payment on com-
failure to do	contract.
	1895. Road account.
may work	1896. Powers of Auditing
contract let.	1897. Township Supervi-
	York County.
	1898. How roads to be w-
in and bridges.	1899. How funds expende-
e let to lowest	1900. Purchase of machi-
	1901. Township road fun-
may borrow.	1902. Per diem.
r in Williams-	1903. Apportionment of t-
	1904. Disbursement of fw-
	1905. Filing vouchers.
	1906. Challenging.
	1907. Supervisor to co-op-
to road fund.	Township Supervi-
d tax.	1908. Engineer may be e-
	1909. Bridges.
a.	1910. Annual report of S-
ages.	1911. County Supervisor's
incer.	1912. Clerk of County C-
: for bids.	ers to keep account
ay work road	1913. Special tax.
	1914. Auditor to make le-

All streams which have been rendered, capable of being navigable or timber, by the removal thereof, and all navigable water courses, and all declared navigable streams, and common highways, and forever free of this State as to the citizens without any tax or impost therefor, unless provided for by the General Assembly shall obstruct the same, otherwise provided, such person shall be deemed guilty of such obstruction may be abated as are by the laws of this State.

defined in *Heyward v. Farmers Mining Co.*, State v. *Pacific Guano Co.*, 22 S. C., 50. That navigable stream is a franchise, which can be granted by the State, and any erection without such authority is illegal. *Young*, 50 S. C., 300; 9 S. E., 355.

The County Board of Commissioners shall and superintend the repair of the bridges, and the bridges shall be repaired under the expense of the same shall be paid from the treasury raised and appropriated

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s purpose. All the work on bridges given out by the County Supervisor and County Board of Commissioners, where the amount shall exceed the sum of ten dollars, shall be done by contract. When the amount shall exceed the sum of one hundred dollars, the County Supervisor and County Board of Commissioners are hereby required to advertise the same in at least one of the papers in the County; said proposal shall in all such cases be accompanied by two or more sureties; when the amount is less than one hundred and more than ten dollars, the County Supervisor and County Board of Commissioners are required to advertise the same by posting a notice in three public places, one of which must be at the place where the work is to be done; and notices to be posted ten days prior to the day on which the work is to be let; and the County Supervisor and County Board of Commissioners shall have the right to reject any and all bids, if in their judgment the interest of the County requires: *Provided*, That in Sumter County it shall not be necessary to advertise by posting or otherwise, in cases of emergency or where the sum to be expended is less than one hundred dollars.

Sec. 1774. Each Township in the several Counties of the State and in any County where no Township exists each tax district shall constitute a highway district. Highway districts; how constituted.

Sec. 1775. The County Board of Commissioners of the several Counties of this State are authorized and empowered, jointly or separately, to establish and maintain such free ferries over the streams of this State and to discontinue the same as in their judgment may seem best; and that all ferries are required to be kept open for use from 5:30 a. m. to 9:30 p. m. Counties may establish and maintain free ferries; hours open.

Sec. 1776. All roads, highways and ferries that have been laid out or appointed by virtue of an Act of the General Assembly, or any order of Court, or by any order of the County Board of Commissioners, are declared to be public roads and ferries, and the County Supervisor and County Board of Commissioners shall have the control and supervision thereof. In those Counties where the Township Board of Commissioners have not been abolished, they shall exercise in each Township or tax district in any County where no Township exists under the supervision of the Township Public roads, highways and ferries; supervision of.

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Opening re-
pairs and dis-
continuance
of roads, fer-
ries, etc.

Width of
roads.

Opening new
roads or
change of lo-
cation.

Surveyor
may be em-
ployed.

Proceedings
to obtain
right-of-way;
service of no-
tice; hearing;
decision.

Board of Commissioners and the County Board of Commissioners. The Township Board of Commissioners, in Counties where they exist, are incorporate, and the Township Board of such Township shall be their corporate body. The said County Supervisor and County Board of Commissioners shall have full power and authority to order

laying out and repairing of public roads where necessary; to appoint where bridges or ferries or fords shall be made; to discontinue such roads, bridges and ferries as shall be useless, and to alter roads so as to make them more useful.

Sec. 1777. The roadbed shall not be less than thirty feet wide, exclusive of side ditches, roots and other obstructions, unless otherwise ordered by the County Board of Commissioners, and be posted with substantial mile posts where roads run through lands where water stands or is high. The roads must be ditched on either side and the road raised. The County Board of Commissioners may also open new public roads and widen or change the location of public roads, where, in their judgment, such change will be for the material interests of the traveling public.

The surveyor may obtain the right of way by gift or purchase, or may condemn the land therefor and assess the compensation and damages therefor as is hereinafter provided.

The County Board of Commissioners shall have power to call to their assistance a surveyor who shall survey and lay off such road, under their direction, so that the grade shall not exceed seven and a half inches above

the rod. The County Board of Commissioners require that such right of way shall give ten days' notice, in writing, to the owner of the land over which such right of way is required, of their intention to condemn and establish the right of way, and of the time and place when and where the compensation and damages therefor will be assessed. If the owner of such land be a non-resident of the County, the notice may be served upon his agent or tenant, or other person in possession thereof; but in such case at least fifteen days' notice must be given. If there be no agent, tenant or other person in possession, the notice may be served by depositing it in the postoffice, postage prepaid, directed to the owner at his last known place of residence, and by publishing such notice for at least two weeks in one of the newspapers published in the County wherein the

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uated. For the purpose of this Section the guardians of infants, the committees of idiots or other persons *non compos mentis*, and trustees, shall be deemed to be owners of the lands of their wards and *cestuis que trustent*. In case an infant owner has no guardian, or an idiot or other person *non compos mentis* has no committee, service may be made on the person with whom they severally reside, and upon the Probate Judge of the County, who shall appoint guardians *ad litem* to appear and represent them. In case the interests of any guardian or committee shall be opposed to those of his ward, a guardian *ad litem* shall be appointed by the Probate Judge, who shall have authority to appear and represent such ward. No member of the Board who is personally interested or who is related by blood or marriage in the sixth degree to any person claiming compensation or damages, shall serve while the case of such person is under consideration. The places of disqualified members of the Board shall be filled *pro tempore* by appointment to be made by the Clerk of the Court. All persons interested shall have the right to introduce testimony and to be heard in argument upon the matter of compensation in damages. After hearing the evidence and arguments, the Board shall render its decision by resolution, which shall be recorded in its minutes.

Upon the resolution of the Board fixing the amount of the compensation and the damages in any case, a warrant may be drawn on the County Treasurer for the amount so fixed, and the Treasurer shall pay the same out of any funds in his hands applicable to such purposes. Any person interested may appeal to the Court of Common Pleas from the decision of the Board: *Provided*, The notice and grounds of appeal be served upon the Supervisor of the County and filed with the Clerk of said Court within ten days after the decision of the Board. The Clerk shall docket such appeal as Calendar No. 1, and they shall be heard in said Court *de novo* before a jury, unless the right to jury trial be waived, as in other cases provided by law. Such appeals may be called up for trial out of their order by either party. The verdict of the jury in such cases shall be final, unless set aside for the reasons for which verdicts may be set aside in other cases, or unless the judgment of the Court there-

Payment for
right-of-way;
appeal, etc.

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ds planted or left for ornament or shade, either in the
 ds, around the springs, or about the dwelling houses or
 purtenances, and any rail timber when other timber may
 procured at or near the place, and to dig or cause to be
 g and carried away any earth, gravel, sand or stone which
 y be necessary to make, improve or repair said roads, for
 ich compensation shall be made, except from within
 ounds of any person inclosed for cultivation without con-
 t of owner; and to enter on any lands adjoining or
 ng near the roads to make such drains or ditches through
 e same as he may deem necessary for the benefit of the
 ds, doing as little injury to said lands and improvements
 ereon and timber as the nature of the case and the public
 od will permit; and the drains and ditches so made shall
 kept open by such overseer, and shall not be obstructed by
 e owner of the land, or any person having the same in
 charge: *Provided*, That in Beaufort and Berkeley Counties ^{1909. XXVI.}
 e County Supervisor is authorized to have the public _{59.}
 ghways worked by contract, by the overseer plan, or
 ploying superintendents of work, and in Horry and
 eorgetown Counties, by contract plan, and in Hampton
 unty, by contract or overseer plan.

Sec. 1778. In the County of Georgetown the County <sup>Road Super-
 intendent
 Georgetown
 County: At-
 torney in
 Clarendon
 County.</sup>
 upervisor shall have power and authority to employ one
 more road superintendents, whose duty it shall be to see
 at each person liable to road duty in said County shall
 rform the same, and to look after the payment or the
 mmutation road tax: *Provided*, That in Clarendon
 ounty the County Board of Commissioners shall have the
 ower to employ an attorney to prosecute those failing to
 ork the roads or pay the commutation road tax.

Sec. 1779. In case any person shall remove from one <sup>Removal of
 road bands
 after working
 road.</sup>
 ounty to another, or from one Township in the same
 ounty, or one district to another in the same Township,
 ho has prior to such removal performed the whole or any
 art of the labor aforesaid, or in any other way has paid the
 hole or any part of the amount aforesaid in lieu of such
 bor, and shall produce a certificate of the same from the
 verseer of the proper district, such certificate shall be a
 mplete discharge for the amount therein specified.

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before whom such judgments were obtained, and the amounts thereof; and the County Supervisor or County Board of Commissioners or the Township Board of Commissioners shall make such order as to the prosecution of the suits by the owner of the proper district against such delinquents as in the judgment of the County Supervisor or the County Board of Commissioners or the Township Board of Commissioners the interest of the public may require.

Sec. 1783. All property that may remain in the hands of an overseer at the time of the annual settlement with the County Supervisor or County Board of Commissioners or Township Board of Commissioners, shall be turned over to his successors in office as soon as such successor shall be elected and qualified, taking a receipt therefor, and depositing the receipt with the County Supervisor or County Board of Commissioners or the Township Board of Commissioners. It shall be lawful for any overseer to sue out executions on any judgment that remains unpaid within his proper district at any time when, in his opinion, the same can be collected, and the money so recovered and collected shall be paid over to the County Treasurer, as provided in the foregoing Section, or to the Magistrate so collecting.

Sec. 1784. The County Supervisor or County Board of Commissioners, within the County, is authorized to have the overseer to construct foot paths or bridges over streams, swamps, marshes and along the highways of his County.

Sec. 1785. Each overseer, within his district, may erect and keep up, at the expense of the County, at the forks and cross roads, a post and guide-board, or finger-board, containing an inscription, in legible letters, directing the way and distance to the town or towns, or public place or places, situated on each road, respectively.

Sec. 1786. The County Board of Commissioners are authorized to furnish signboards, ploughs, scrapers or other tools for the use of the several districts, at their discretion, to be paid for out of any moneys in the County treasury not otherwise appropriated; and in those Counties where Township Boards of Commissioners exist, to turn the same over to the Chairman of the Township Boards of Commissioners, and take his receipt therefor. The Township Board of

Overseers to
turn over
property to
their succe-
sors.

Footpaths
and bridges
over streams.

Guide finger
boards.

What Coun-
ty Board of
Commission-
ers shall fur-
nish for
roads.

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Commissioners shall take a receipt from each overseer for such implements as they may deliver to him, showing the number, kind and condition thereof; and such overseer shall be liable for any injury or damage that may result to such implements, or to any of them, by improper use thereof, or by unnecessary exposure to the weather, during the time the same may be in his possession; and he shall, on the Tuesday of February, annually, return the same to the Township Board of Commissioners. The amount for which an overseer may be liable for such improper use or neglect may be recovered by action in the name of the Township Board of Commissioners.

Penalty for
improper use
of tools,
may be in-
creased in.

Punishment for unlawful use of tools, etc., see Criminal Code section 681.

County Board
may hire la-
borers to work
on.

Sec. 1787. The County Board of Commissioners of several Counties may, in their discretion, employ and employ overseers and laborers upon the public highways, under the control of overseers, at such compensation as the Board may determine. Commutation taxes and other funds as may be applicable to highways, may be used in payment for such work.

Punishment of overseer for neglect of duty, etc., see Criminal Code section 684.

Unlawful to
use any but
the roads.

Sec. 1788. It shall be unlawful for any overseer to form or cause labor to be performed on any road not lawfully laid out and established by law.

Obstructions
on road; how
removed.

Sec. 1789. Any time during the year, when any highway shall be obstructed, it shall be the duty of the overseer of the district in which the same may be, for him to cause such obstruction to be removed, for which purpose he shall immediately order out such persons liable to work upon the public highways of his road district as he may deem necessary to remove said obstructions. If the person or persons thus called out shall have performed the required number of days' labor upon the public highway, the overseer shall give to such person or persons a certificate for the amount of labor performed, and said certificate shall apply on the labor that may be due for such person or persons for the ensuing year.

Sec. 1790. If any person or persons, corporations, or the conductor of any train of railroad cars, or any other

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servant of any railroad company, shall obstruct unnecessarily any public road or highway by permitting any rail-car or cars or locomotive to be or remain upon or across street, public road or highway for a longer period than minutes, after notice to remove said cars has been given conductor, engineer, agent or such other person in charge said train, or shall permit any timber, wood or other obstruction to remain upon or across any such street, road or highway to the hindrance or inconvenience of travelers, any person or persons passing along or upon such street, or highway, every person or corporation so offending shall forfeit and pay for every such offense any sum not exceeding twenty nor less than five dollars, and shall be liable for all damages arising to any highway, to be recovered by an action at the suit of the County or Township Board of Commissioners in which such offense shall have been committed, or any person suing for the same, before the Magistrate within the County where such offense shall have been committed, or by indictment in the Court of General Sessions or suit in the Court of Common Pleas; and all damages so accruing under the provisions of this Section, when collected, shall be paid over by the Magistrate to the County Treasurer for the district in which such offense was committed; and every twenty-four hours such corporation, person or persons, as aforesaid, after being notified, shall suffer for obstructions to the hindrance or inconvenience of travelers or any person going along or upon such road or highway, shall be deemed an additional offense against the provisions of this Chapter.

Sec. 1791. Every railroad company, or other corporation, servant or servants, agent or agents, employee or employees, which, shall, in any manner, obstruct any street, public road or highway, shall be liable to pay all fines which may be assessed against such servant or servants, agent or agents, employee or employees, for so obstructing any such street, public road or highway; and such liability as may be enforced by execution against such railroad company, or other corporation, on the judgment rendered against such servant or servants, agent or agents, employee or employees, for so obstructing such street, public road or highway.

Obstructions
of roads; pen-
alty; liability
for.

Obstructions
by corpora-
tions and
their agents.
Liability for.

ards of Commissioners as conclude that the system of working the highways by those liable to road duty in their respective Counties is more conducive to the welfare thereof; and in such cases overseers shall be appointed in each Township by the County Board of Commissioners, or in those Counties where Township Boards of Commissioners exist, by said Township Board of Commissioners for such Township, who shall execute the laws in reference to work on public highways.

Working roads by chain gang on contract system optional.

Sec. 1795. In those Counties where the public roads are worked by those liable to road duty, or in which any highway district is so worked, the County Supervisor and Board of Commissioners shall divide the highways in each district which is so worked into suitable sections of not less than one mile, nor more than five miles each, and where not worked under the contract system shall appoint an Overseer of Roads for each of said sections. They shall also divide the persons liable to road duty in each highway district into convenient and suitable squads or companies, and assign a squad or company to each overseer of a section, assigning the road hands, as far as practicable, to the nearest roads; they shall require the Overseer of Roads to call out the hands assigned to their respective sections, and work the roads, and repair and build bridges of same, whenever they may deem it necessary, after twelve hours' notice; and shall require every road hand to bring with him for use a hoe, axe, mattock, and other tools for work on the road or bridges. They shall determine the number of days each working, and the tools to be brought by each hand, but not more than the number of days as fixed for each County herein are required of any one man in the year. Whenever a highway runs along the line of two highway districts, the Supervisor shall divide the highway into suitable sections, and appoint one or more overseers for each of such sections, and they shall assign to such overseers from said districts, or from either district, such laborers and road hands as may be necessary to work the same. The Supervisor shall cause overseers, when working sections in which there are bridges, to preserve and keep them in order, as are in their opinion of such character as not to require to be given out under contract, and can conveniently be done by the road hands.

Division of highways into sections: appointment of overseers: road hands: how assigned to work: notice required given them. Duties of overseers.

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Duties of
Township
Commission-
ers and pow-
er over road
and, etc.

Sec. 1796. In those Counties where Township Board of Commissioners exist they shall, subject to the approval of the County Board of Commissioners or the Supervisor of their respective Counties, divide their respective Townships into suitable road districts, and make a record thereof in a book kept for that purpose, and annually thereafter make such alterations therein as they may deem proper, and cause a brief description thereof to be made on the township records, and also to furnish each overseer with a description of his road district. The Township Board of Commissioners of each Township, at their annual meeting, and annually thereafter, shall elect from the qualified voters of their Townships liable to road duty one overseer for each road district, whose term of office shall be two years from the date of appointment, and who shall receive no compensation as the County Board of Commissioners may fix. Such overseer shall not be compelled to serve more than one term; and each overseer who refuses or neglects to qualify and serve shall forfeit and pay the sum of ten dollars and costs, or be sentenced to the County chain-gang, suit to be brought by the Township Commissioners before the nearest Magistrate. Money so collected shall go into the road fund of the County and be credited to the road district from which it was collected. That when any vacancy occurs in the office of overseer by death, resignation, or otherwise, the Township Board of Commissioners where such vacancy occurs shall appoint some suitable person to fill such vacancy: *Provided*, That such overseer may appoint any suitable person liable to road duty on his road a warner, and such person shall be exempt from road duty for the term he acts as warner.

Overseer
may appoint
warner.

Duty of Com-
missioners
here con-
tract system
working
roads adopt-
ed.

Sec. 1797. If the County Board of Commissioners shall conclude to adopt a contract system for working, maintaining and operating the several sections of highways, bridges and ferries in the several Townships in the respective Counties, or any part thereof, the County Supervisor or County Board of Commissioners, as soon as practicable thereafter, may advertise in the newspaper published in the County, once a week for three weeks, and by posting in two or more conspicuous places in the several Townships, or the Township to be worked by contract

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for bids from responsible persons for the performance of the work as above set forth, and to furnish specifications for such work or contracts as has been advertised. Any and all bids shall be made in writing, sealed and addressed to the County Supervisor and by him opened in the presence of the County Board of Commissioners, and submitted to the County Board of Commissioners, and it shall be the duty of said Board to accept the lowest bid made by a responsible person or party (*Provided*, That the County Board of Commissioners shall have power to reject any and all bids, and shall require bond), who shall execute and furnish sufficient bond to keep, repair and maintain said public highway for the period of twelve months from date of contract, such contractor or contractors to execute a bond for double the amount of his or their contract, with two or more sureties, to be approved by the County Board of Commissioners; and said Board is hereby empowered to hire overseers and laborers, and have the work performed as in its judgment may be most expedient and for the best interest of the County: *Provided, further*, That the County Supervisors and County Board of Commissioners of the several Counties of this State are hereby authorized and empowered to arrange to work the roads of their respective Counties with the convicts of their several Counties, or to lease to or from the County Board of Commissioners of any County, on such terms as may be agreed upon by the respective County Boards of Commissioners, and convicts sentenced to perform hard labor upon the public works of any County, and said convicts may be worked upon the roads, highways, bridges or other public works of the County where convicted of the County to which they have been leased.

Sec. 1798. In the districts where the working, maintaining and operating the highway is done by contract, as above provided, such persons as are liable to road duty on such highways, respectively, and desire to work the number of days required instead of paying the commutation tax, shall be allowed to work on said highway, under the direction and control of the contractor, and such contractor shall account to the Supervisor or Board of County Commissioners, as the case may be, for the days so worked by each person, and the sum per day as the number of days required of such

Credit to be given County for labor performed by road hands under contractor.

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person bears to the commutation tax permitted thereof.

Levy of special tax for roads.

Sec. 1799. The County Board of Commissioners of Counties are authorized to levy annually a sum not exceeding one mill on all the taxable property of the respective Counties, which shall constitute a part of the County fund, to be expended by the said Board in the same manner as is provided by law for the use and expenditure of the commutation tax in lieu of road duty; and such tax shall be collected at the same time and in the same manner as is provided by law for the collection of taxes levied for ordinary County purposes: *Provided*, That the County Board of Commissioners of any County may cause to be levied a road tax not to exceed one mill on all taxable property in any Township in their County, when so requested by a written petition signed by two-thirds of the freeholders of such Township, such tax to be collected as other taxes, and to be expended on the roads and highways of such Township. The County Treasurer of said Counties shall furnish to the County Supervisor and County Board of Commissioners of their respective Counties a list containing the names of all persons who have paid their commutation tax; and the Township Boards of Commissioners shall also prepare and furnish to the Supervisors and County Board of Commissioners a list of all persons liable to road duty in their respective Townships; and County Treasurers, on receipt of said commutation tax, shall furnish the persons paying the same with certificates that said tax has been paid, and shall relieve such persons from road duty for the year aforesaid. And all persons whose names shall remain on the list, prepared by the overseers, so checked, shall be liable to perform road duty, not exceeding in the aggregate the number of days required as fixed for each County, and shall be assigned to such duty by the County Supervisor and County Board of Commissioners under the direction of the contractors or overseers in the Township having control of the section or sections nearest the residence of the person or persons. It shall be the duty of the contractor of any section to receive such person or persons so assigned to him by the County Supervisor or County Board of Commissioners, and he shall allow to the County Board

Lists of road hands to be furnished.

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oners such sum per diem for the labor of any such person or persons as may be agreed upon by contractors and County Board of Commissioners, and said sum shall be paid upon the amount due or to become due said contractor by the said Board as hereinbefore provided.

Sec. 1800. The County Board of Commissioners are authorized to work the highways in their Counties, in any part thereof, by a chaingang, without regard to the form or systems used in other portions of their Counties. Immediately after the payment of the commutation road tax to County Treasurers, as provided in this Chapter, they shall furnish the County Board of Commissioners of their respective Counties with the names of all persons who have paid said tax; and the County Board of Commissioners shall furnish all overseers or contractors with the names of such persons who shall not be liable to road duty for the year in which said payment may be made.

Use of chaingang on roads.

List of persons paying commutation tax to be furnished by the County Treasurer.

Sec. 1801. All moneys paid into the County treasury in payment of work on the public roads shall be kept separate and apart from the General County fund, and, except otherwise hereinbefore directed, shall be exclusively applied by the County Board of Commissioners to repairing highways and bridges of the County, by contract or otherwise, as may be deemed most expedient; but said moneys must be expended upon those sections of the public roads whereon the persons paying such commutation tax shall be liable for road duty. The County Board of Commissioners of the Counties are authorized to use for other county purposes than repairs of highways any balance of road commutation tax remaining in County Treasurer's hands on the first day of January in each year.

How money paid for commutation tax shall be kept and applied.

Sec. 1802. The County Board of Commissioners are hereby authorized and empowered to have special supervision of the building of new bridges over the rivers and creeks of this State; also of extra and extensive repairs of bridges. When such work is to be accomplished the supervisor and County Board of Commissioners shall give seven days' notice in the County paper, and in writing duly posted in the neighborhood in which such work is to be performed, that he will be at such place on such a day and hour, with suitable specifications, to let out such work to

Duties of County Commissioners with respect to bridges.

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the lowest bidder, and to take from the successful bidder sufficient bond for the faithful performance of the work. When the work is done it shall be inspected by the Supervisor and County Board of Commissioners, who shall report the result of his investigations to the full Board, which shall accept or reject the same according as it may determine whether the contractor has or has not complied with the terms of his contract.

Bridges over
waters be-
tween two
counties.

Sec. 1803. If any bridge over waters of the State which shall constitute a boundary line between two counties shall be necessary to be erected or repaired, it shall be the duty of the Commissioners of such Counties to cause the same to be erected or repaired in the manner provided in the last Section, each County bearing an equal share of the expense so incurred. And when any such bridge already exists, or shall hereafter be built, it shall be the duty of the said Commissioners to divide the same, by means of a line from the centre to the end of each approach, and each County shall be responsible for the good condition of the bridge adjoining the County in which they exercise the duties of office. And when it becomes necessary to build a new bridge, or to entirely replace an old one which has been carried away or destroyed, it shall be the duty of the Commissioners of the two Counties to do the same, as aforesaid.

Owners of
dams and
bridges to
keep same in
repair.

Sec. 1804. It shall be the duty of all owners of dams and bridges in connection therewith over which a highway shall pass, to keep the same in good repair. Each County shall be responsible for repairs upon the same, except that the County Commissioners may have the same and bridges repaired in the ordinary way of repairing roads and bridges, if, in their opinion, such ordinary repairs shall be just.

Special tax
may be
made for road
purposes;
how levied;
how expended.

Sec. 1805. The County Board of Commissioners of several Counties of the State where there is a special levy on real and personal property for road purposes, shall, on or before the first of March in each year, shall apportion the road fund derived from said special levy to each County upon an equitable basis: *Provided*, Where levied in a Township, as provided, it shall be expended in that Township. The road fund so apportioned shall be expended in doing all necessary work upon the public highways.

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ning new roads when directed, and in building and
 ping in repair all bridges that do not exceed twelve feet
 length, by the road overseers or Township Board of Com-
 missioners, as the case may be, subject to the general super-
 on and approval of the County Board of Commission-
Provided, however, That the Board of County Com-
 missioners or Township Commissioners shall not enter into
 contract for the expenditure of more than four-fifths
 their apportionment before the first of the last quarter of
 fiscal year: *Provided, further,* That any contract entered
 o by the Board of County Commissioners in excess of the
 apportionment shall be void. No County Commissioner
 ll be directly or indirectly interested in any contract per-
 ning to his duty as County Commissioner.

Commission-
 ers not to be
 interested in
 contracts.

Sec. 1806. Private roads crossing railroads shall be pro-
 tected by said railroads the same as the law requires them to
 protect public highways.

Private cross-
 ings over rail-
 road: how
 protected.

Sec. 1807. The County Supervisors of the various Coun-
 ties of this State are hereby authorized and empowered to
 cut all dead trees, or other trees situated within such dis-
 tance of the public highways, as endanger the safety of the
 traveling public; and for such purpose the said Super-
 visor, or such persons as they may direct, are authorized to
 enter upon the lands of any and all land-owners adjoining
 any public highway.

County Su-
 pervisors au-
 thorized to cut
 trees near
 highways.

1906. XXV.
 43.

Sec. 1808. It shall be lawful for any citizen of this State
 whose land any road other than a public highway may
 cross to erect gates thereon.

Gates on pri-
 vate roads.

Civ. '02, §
 1338.

Sec. 1809. The County Boards of Commissioners of the
 several Counties, on application to them for the purpose,
 may allow the erection of gates upon the highways of the
 State, wherever in their judgment the same be expedient
 and not detrimental to the public interest.

Gates on pub-
 lic highways.

Civ. '02, §
 1339.

Sec. 1810. The owner or keeper of any gate which
 obstructs a highway, either public or private, shall have such
 gate constructed so as to afford a roadway between the
 posts of at least nine feet, and shall keep the said gate in
 such repair and condition as to be easily opened and shut,
 and that the latch or other fastening will adjust itself on
 being closed; and, further, shall cause to be erected, at con-
 venient distance from such gate on each side, a suitable

Requirements
 as to con-
 struction of
 gates.

Civ. '02, §
 1340.

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d. Such person has not in any way brought about such injury or damage by his own act, or negligently contributed thereto. If such defect in any road, causeway, or bridge existed before such injury or damage occurred, such damages shall not be recovered by the person so injured, if his weight exceeded the ordinary weight: *Provided, further,* that such County shall not be liable unless such defect was occasioned by its neglect or mismanagement: *Provided, further,* That if in any case brought under this Section it should be made to appear that before the damage occurred the supervisor of such County had been notified in writing, by any citizen, that the highway, causeway or bridge, at or on which the damage occurred was defective, or needed repair, the burden of proof as to the negligence of County officials shall be upon the County to show, either that such defect did not in fact exist, or that it had been properly repaired, or that a reasonable time had not elapsed since such notice was given in which to make such repairs.

The injury must arise from a defect in the highway, not from fright of the animal.—*Mason v. Spartanburg Co.*, 40 S. C., 300; 9 S. E., 15; 42 Am. St. Rep. 887. Absence of railing not proximate cause of injury resulting from taking fright at a piece of timber lying near, and backing buggy off the road.—*Brown v. Laurens Co.*, 38 S. C., 282; 17 S. E., 21; see also *Dunn v. Town of Barnwell*, 43 S. C., 398; 21 S. E., 315; *Acker v. Anderson County*, 20 S. C., 494. Absence of contributory negligence must be alleged in the complaint since the Act of 1892.—*Walker v. Chester County*, 40 S. C., 18 S. E., 936. The negligence of plaintiff is not governed by the rules of contributory negligence at common law, but he cannot recover if the injury was in any way brought about by his negligence, or if he negligently contributed thereto—"contributed" defined.—*McFall v. Barnwell County*, 57 S. C., 204; 35 S. E., 502. Claim for damages need not be presented to County Board of Commissioners before action brought.—*Jennings v. Abbeville County*, 24 S. C., 543; even before the amendment as to negligence on part of plaintiff, he could not recover if he received the injury through carelessness regarding a patent defect, which he knew to be dangerous.—*Laney v. Fairfield County* 20 S. C., 140; 7 S. E., 56. The right of action does not survive.—*All v. Barnwell County*, 20 S. C., 161; 7 S. E., 58. The injury must be in a public road which is a highway and which it is the duty of the County to maintain.—*Hill v. Laurens County*, 34 S. C., 141; 13 S. E., 387. This statute does not include injuries arising from the use of a defect-laid boat on a ferry operated by the County; a ferry not being a highway within the meaning of the statute.—*Chick v. Newberry County*, 27 S. C., 3 S. E., 387. Measure of actual damages.—*Pearson v. Spartanburg County*, 51 S. C., 480; 20 S. E., 103.

Sec. 1815. If before the commencement of an action provided for in the preceding Section the County Commissioners tender to the plaintiff the amount which he might be entitled to recover, together with all legal costs, and the plaintiff refuse to accept the same, and does not recover

Tender before action; effect of refusal.

Civ. '02, § 1348.

upon subsequent trial a sum larger than the amount tendered, the defendant shall recover costs and the plaintiff be entitled to the results of no verdict.

Sec. 1816. All persons who are liable to road duty, of performing or causing to be performed; labor upon public highways, shall, in the Counties hereinafter named, be required to pay to the respective County Treasurers an annual commutation or road tax, as follows: Beaufort County, one and one-half dollars; Fairfield, two dollars; Calhoun, two dollars; Georgetown, two dollars; Richland, three dollars; Berkeley, one and one-half dollars; Rutherford, one dollar; Abbeville, one dollar; Orangeburg, two dollars; Lancaster, three dollars; Dorchester, two dollars. The commutation or road tax so collected shall be expended as nearly as possible in the Township or parish from which collected, except in the County of Fairfield. The same commutation or road tax shall be paid between the first day of October and the thirty-first day of December of each year: *Provided*, That in the County of Colleton it shall be paid on or before the first day of May of each year. *Provided, further*, That in the County of Orangeburg it shall be paid on or before the first day of March of each year.

Punishment for failure to perform road duty or pay commutation tax.
Section 620.

Sec. 1817. Except in the Counties of Clarendon, Darlington, Fairfield, Lexington, Saluda and York, the following persons shall be exempt from road duty: Ministers of the Gospel in actual charge of a congregation, teachers employed in the public schools, school trustees, and persons permanently disabled in military service of the State; persons who served in the late war between the States; all persons actually employed in the quarantine service of the State, and all students who may be attending any school or college at the time when the commutation tax payable for shall become due: *Provided*, That in the Counties of Berkeley, Georgetown, Horry and Sumter any person claiming exemption from the provisions of this Section on the ground of physical disability, where such disability is not apparent, shall be required to produce a certificate of disability from two regular physicians, dated within

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months: *Provided, further*, That in the Counties of Horry and Sumter such certificate shall be dated within three months, and in the County of Berkeley the certificate shall be signed by one regular physician.

In Lexington County persons incapable of earning a support from being maimed or any other cause shall be exempt from performing, or causing to be performed, labor on the public highways; and in York County persons in incorporated cities and towns, and persons who are deaf, dumb, blind, or wholly disabled, shall be so exempt; and in the County of Fairfield persons in incorporated towns shall be exempt.

Sec. 1818. All male persons able to perform the labor therein required, from the age of eighteen to fifty years, both inclusive, except in Greenville, Anderson, Pickens, Union, Marion, Spartanburg and Cherokee Counties, where the age shall be from twenty-one to fifty years, both inclusive, and except in Clarendon, Lexington, Sumter and Saluda Counties, where the age shall be from eighteen to fifty-five years, both inclusive, and except in the Counties of Berkeley, Horry and York, where the ages shall be from twenty-one to fifty-five years, both inclusive, and except in the Counties of Beaufort and Georgetown, where the ages shall be from twenty-one to sixty years, both inclusive, shall be required annually to perform labor on the highways under the direction of the overseer of the road district in which he shall reside, in the various Counties, as follows: Aiken, four days; Anderson, three days; Bamberg, six days; Barnwell, six days; Charleston, eight days; Cherokee, three days; Chester, six days; Chesterfield, five days; Clarendon, six days; Colleton, four days of nine hours each; Darlington, six days; Dillon, six days; Edgefield, six days; Florence, six days; Greenville, three days; Greenwood, four days; Hampton, six days; Horry, six days; Kershaw, six days; Laurens, four days; Lee, six days; Lexington, twelve days; Marion, six days; Newberry, six days; Oconee, two days; Sumter, six days; Pickens, five days; Saluda, six days, two days prior to the first day of April, three days prior to the first day of September, and one day prior to the first day of December: *Provided*, Persons liable to labor under this section shall have the right to furnish a competent substi-

Road duty;
who to per-
form: number
of days.

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tute to labor in his stead: *Provided, further,* Ten day shall be a day's work.

Punishment for failure to perform road duty, see Criminal Code 620.

Commuta-
tion tax.

Sec. 1819. In lieu of performing, or causing to be performed, the labor of ten hours per day, as provided in the several counties, a commutation tax may be paid by any person so liable, on or before the first day of March of each year (except in the County of Chesterfield, when such tax shall be paid by December 31st of each year) which in the following Counties shall be as follows: Aiken, Allendale, Cherokee, Chesterfield, Darlington, Florence, Georgetown, Greenwood, Hampton, Laurens, Oconee, Spartanburg, Union, and Williamsburg, one dollar; Marlboro and Pickens, one and one-half dollars; Bamberg, Barnwell, Calhoun, Colleton, Dillon, Kershaw, Lee, Marion, Newberry, and Sumter, two dollars; Chester, Clarendon, Saluda, and York, three dollars; Edgefield, not less than one dollar nor more than three dollars, as may be fixed by the Board of Commissioners; Lexington, three dollars; and in as much as may be necessary: *Provided,* That in Chester County the tax shall be paid on or before the 15th day of July of each year.

Return for
road tax in
certain Coun-
ties.

Sec. 1820. Every person in the Counties of Allendale, Berkeley, Richland, Dorchester, Georgetown, Hampton, Horry, liable for the road tax shall return himself to the County Auditors for such tax to the County Auditors of said County in each and every year between the first day of January and the twentieth day of February, and the County Auditors are hereby authorized and directed to solicit and take such returns. The County Auditors shall make out and deliver to the Township Boards of Assessors of said County in Berkeley County to the Parish Commissioners, the names of the persons who have returned themselves for taxation for such tax in their Townships or Parishes. The Township Boards of Assessors, or Parish Commissioners, shall add to said lists the names of all persons in their respective Townships or Parishes liable for said tax who have not returned themselves to the County Auditors. Said County Auditors in each and every year, on or before the fifteenth day of October, shall make out and deliver a list of the names of all persons liable for said road

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id County, alphabetically arranged by Townships, or
ishes, to the County Treasurers of said Counties: *Pro-*
vided, That in Abbeville and Richland Counties the Auditor
all add a penalty of fifty (50) cents to each person liable
r said commutation tax who had not returned himself for
ch tax as hereinabove required.

The said County Treasurers are hereby authorized and
rected to collect said tax and to turn the same into the
ad fund for their respective Counties: *Provided*, That the
oney collected in the corporate limits of the city of
olumbia be divided as follows: one-half turned over to city
Columbia for permanent street improvement and one-
lf to County for roads. Said County Treasurers shall
ep a book in which shall be recorded by Townships or
arishes the names of those paying said commutation or
ad tax, and: *Provided, further*, That in Berkeley, Dor-
ester, Georgetown, Hampton and Horry Counties the
ounty Treasurer shall keep a book in which shall be
orded by Townships or Parishes the names of those pay-
g said commutation or road tax.

Special Provisions in Certain Counties.

CHESTER COUNTY.

Sec. 1821. In Chester County, for the purpose of main-
ining and improving the public highways, there shall be
vied each year an annual tax of two mills on all the real
nd personal property in the said County, which shall be
vied and collected in the same way and at the same time
s all other taxes. And said highway tax, when col-
ected, shall be set apart and appropriated to each of the
ight Townships in the County equitably and pro rata
ccording to the public road mileage of each Township, by
he Board of County Commissioners, on the first day of
anuary of each year, or as soon thereafter as practicable.
And said Board of Commissioners shall file their apportion-
ent of said taxes with the County Treasurer, who shall
hereupon credit each Township with its apportionment, and
keep an account with each of said Townships.

Punishment for failure to pay commutation tax or perform road duty. See
riminal Code, Section 629.

Special t
in Chester
County.
1910, XXV
647.

CIVIL CODE

Sec. 1822. After consulting with the Board of Commissioners, the legislative delegation of Chester shall recommend, and the Governor shall appoint an Commission, on or before the first day of May, 1910, a Township Supervisor in each Township in said County, who shall bond for the sum of five hundred dollars, and shall hold office for two years and until his successor is appointed and qualified, unless removed from office for cause. Each Township Supervisor shall, under the general supervision of the Board of County Commissioners, have charge, control, and management of the public roads in his Township. He shall prepare an alphabetical list of all persons in his Township liable for road duty, and file the same with the County Supervisor on or before the fifteenth day of July in each year. He shall co-operate with Board of County Commissioners in appointing a sufficient number of overseers in his Township, and supervise and direct the work of the said road overseers, and he may assign any person liable to road duty, and who has not paid his commutation tax, to the control and management of an overseer and to work in any section of the Township as directed. He shall employ labor at market price for not more than ten hours' labor to work upon the roads in his Township under the overseer or himself; he shall see that the law relating to keeping streams free from rafts is obeyed in his Township. He shall let any contract for the repair of any bridge or effect in the road not costing over ten dollars, and shall approve all accounts for overseers and all accounts for supplies, or other work done in his Township, and shall submit them with the Board of County Commissioners: and the said County Commissioners may pay the lists for labor and may rolls for labor through the agency of the Township Supervisors.

Sec. 1823. Each Township Supervisor in said County, in co-operation with and jointly with the County Supervisor and Board of County Commissioners, shall expend and use the Township road fund arising from the said property tax, commutation tax, or other source, for the maintenance and improvement of the public roads in the Township to which the same belongs and is credited. And the said Township Supervisor shall inspect all work done on the roads in his Township by contract or otherwise, and shall approve

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ch all claims on the road fund in his Township, and submit the same to the County Commissioners. Each Township Supervisor may purchase from the said road fund such machines, implements and tools as may be needed for the making of the roads in his Township: *Provided*, He shall make no purchase or let any contract for work for more than ten dollars without the approval and authority of the County Supervisor, and the said Township Supervisor shall be responsible for the care and safe-keeping of the said machines, implements and tools, and shall file an itemized statement of the same, showing the amount expended and the value of the implements on hand on April first of each year.

Sec. 1824. Each Township Supervisor in said County shall receive for his services the sum of two and a half dollars ^{Compensation.} per day for each day of actual service rendered by him, not exceeding twenty days in any one year, and provided that ten hours shall be a day's service, but fractional parts of a day may be added together to make a total day. The accounts for said services shall be itemized by the Township Supervisors, and after its approval by the County Commissioners, shall be paid by the County Treasurer monthly out of the proper Township funds.

Sec. 1825. The Road Overseers in said County shall receive for their services the sum of one and a half dollars ^{Compensation of road overseers.} per day for each day's work of ten hours per day, the amount of such services shall be itemized and approved by the Township Supervisor, and County Supervisor, and paid monthly by the County Treasurer out of said respective Township funds.

Sec. 1826. The County Treasurer in said County, in a ledger kept for that purpose, shall keep a separate account ^{County Treasurer to keep ledger of road taxes.} for each Township road fund, in which he shall credit each Township with the said property tax as apportioned to it by the County Commissioner, and with any road communication tax paid by any citizen residing in such Township, and with any other funds that may belong to the roads of such Township from any source; and pay out from said Township's funds the warrants and claims drawn by the Board of County Commissioners and Supervisor thereon as hereinbefore provided. And the said County Treasurer

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shall make monthly settlements with and monthly report to the Board of County Commissioners, of the separate respective Township road funds.

Chaingang.

Sec. 1827. The chaingang in said County shall be employed generally in permanent road and bridge work, under the direction of the County Commissioners and County Supervisor. And it shall be assigned by them, so far as practicable, equitably and justly, to the several Townships of the County in a schedule period of two or two and a half years, subject to the regulations of the said Board of County Commissioners. When needed the work of the chaingang and the repair of roads by means of the Township road funds shall both be done under the plans and specifications of an engineer to be employed by the Board of County Commissioners, for such time and for such work as may, in their judgment, be for the best interests of the County. The said Board of County Commissioners shall superintend permanent road work and determine the material, whether macadam, gravel, sand-clay, or other material as practicable under the circumstances, which shall be specified therein.

Separate township accounts.

Sec. 1828. The County Commissioners in said County shall keep in their office a separate account with each of said Township road funds, and each Township claim and vouchers shall be filed separately.

CHESTERFIELD COUNTY.

Special tax in Chesterfield County
1910, XXVI, 652.

Sec. 1829. There shall be annually collected in the County of Chesterfield on all real and personal property a tax of one mill for road and bridge purposes, one half of which shall be used in the Township in which it is levied and the other half shall be used as a general road fund, which may be used to secure machinery, tools, appliances and stock, and to supplement any other road fund. The County Supervisor is hereby authorized to have the roads worked by contract or by the overseer plan or by employing superintendents of work; and all road hands employed shall be required to work under any person directed by the County Supervisor, when they shall have failed to pay commutation tax, and it shall be the duty of the County Supervisor to keep a separate road account with each Township.

A. D. 1911

Sec. 1830. Where the roads are worked under the contract system the Supervisor in said County shall require a suitable bond for the faithful and satisfactory fulfillment of said contract, and where said roads are worked under the overseer plan, the said overseer shall make to the Supervisor a sworn, itemized statement, showing to whom the money is paid and the kind and extent of work done. Said statement to be filed with the said Supervisor within thirty days from the time it is placed in his hands, and it shall be especially the duty of the Supervisor to see that the funds herein provided for are promptly and economically expended on the roads which are entitled to receive them. The Supervisor is hereby required to keep a separate road fund and account with each Township in said County.

Work under contract.

Sec. 1831. That there shall be appointed by the County Supervisor of Chesterfield County, a Township Commissioner of Roads for each Township in the County of Chesterfield, whose term of office shall be two years from the time of his appointment and until his successor is appointed and qualified. Said Township Commissioner shall give a good and sufficient bond in the sum of three hundred dollars, to be approved by the County Supervisor, conditioned for the faithful performance of his duties, and for the faithful expenditure of all money going into his hands for road and bridge purposes. The said Township Commissioners shall be under the direction and control of the County Supervisor, who shall advise with said Commissioners as to the best methods of improving the highways and public roads of said County. The said Commissioners shall render quarterly sworn statements to the Supervisor of the expenditures of all funds going into their hands. And the Treasurer of said County shall turn over to said Commissioners, respectively, upon the order of the County Supervisor, each Township's share of the one mill property road tax, the commutation tax of each Township, respectively, and all funds raised by special levy or otherwise, by each Township for road purposes. The County Supervisor is hereby authorized to use the general road fund as he may deem best for road and bridge purposes in the various Townships of said County in the purchase of tools and machinery, appliances and stock, and in the actual work of the road in the various Townships

Township Commissioners of roads

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Township Commissioners
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ON COUNTY.

Board of Commissioners of
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A. D. 1912.

acted to summon and require of each of said hands liable to road duty who shall fail to pay the commutation tax six months' work of ten hours each upon the highways to which they shall be assigned.

Sec. 1837. That it shall be the duty of the County Board of Commissioners for said County, and they are hereby required, where any important piece of road or bridge work is to be done, and the cost of same exceeds twenty-five dollars (cases of emergency excepted), to let out contracts for same, to the lowest responsible bidder, after ten days' advertisement of the time and place of said letting; and the Board shall require of the person taking said contract bond, in a good and sufficient sum of not less than double the amount of said contract, with proper security, for the proper performance of said contract; all plans and specifications shall be furnished by the Board, in writing, and referred to in the contracts, so as to fully identify and show the terms upon which such contracts shall be let.

Duty of
Commissioners
to let out
contracts for
road work.

1908, XXV.
1200.

Sec. 1838. The County Board of Commissioners of Colleton County, or a majority thereof, shall have the power to direct the Supervisor where to use or work the chaingang on the roads of said County.

Sec. 1839. That it shall be the duty of the County Board of Commissioners of said County to appoint a sufficient number of overseers to warn out the hands liable to road duty, and to superintend the work of said hands; and for superintending said work the said overseers shall be paid at the rate of not exceeding one dollar and fifty cents per day: *Provided*, That said overseer shall not work the public roads with less than ten hands at any one time; that said overseers may warn the road hands in person, or appoint some suitable person liable to road duty on his road as a warner, and such person so acting as warner shall be exempt from road duty for the time he acts as warner.

To appoint
road over-
seers.

COLLETON COUNTY.

Sec. 1840. In Colleton County upon the recommendation of the several Township Board of Assessors and by the probate and consent of the County Supervisor, he shall appoint one or more road overseers in each Township, whose

Road over-
seers in Col-
leton County.

1909, XXVI.
149.

A. D. 1912.

duty it shall be to employ and superintend labor on public highways in his or their Townships, under the direction of the County Supervisor of Colleton County, a force of hands not less than ten in number, who shall receive a per diem of one dollar and fifty cents per day. The hands so employed shall receive not more than one dollar per day, and the overseer at the end of each week shall make a claim against the County, properly signed, for payment thereof.

Working out
commutation
tax.

Sec. 1841. Where a party desires to work out his commutation tax he is hereby permitted to do so, by rendering eight days' work of nine hours each on the public roads of his Township, under said overseer as aforesaid, and when his labor aforesaid is complete the overseer in charge shall make an affidavit and it shall be presented to the Supervisor for his approval and then turned over to the treasurer. He shall thereby be exonerated from commutation tax.

May borrow.

Sec. 1842. In no case shall the overseer collect money from his hands. The County Supervisor at all times shall have the right, when necessary, to borrow money to work on the roads to cover amounts herein stipulated, and pledge his office for the same, and the money so collected from each Township shall be expended therein: *Provided*, That in Run and Collins Township parties subject to road tax shall pay the commutation tax herein on or before the 1st of May or perform eight days' labor on the public highway.

Road engi-
neer to be em-
ployed.

1910, XXVI,
94d.

Sec. 1843. The said Supervisor and County Commissioners of Colleton County shall employ a competent engineer, at a salary not to exceed one hundred dollars per month, to have charge of the road working force of the County, and to lay off, grade and superintend the construction of permanent improvement, giving special attention to the construction of sand-clay roads in the County.

Duty of the
road engineer.

Sec. 1844. That the County chaingang and all other working forces of the County be directed by the said engineer, under the supervision of the Supervisor and County Commissioners, and that no claim for road work be paid, if for more than five (\$5) dollars, until the same has been personally inspected and approved by said road engineer and Supervisor.

A. D. 1912.

Sec. 1845. That the road funds of the County shall be a commutation road tax of two (\$2) dollars on all males between the ages of twenty-one and fifty, unless excused fully, and a property tax of two (2) mills, said taxes to be assessed by the County Auditor, and collected as are other taxes.

Commutation tax.

Sec. 1846. That the public roads of the County be made straight and direct as possible, and the work done be of a permanent and scientific nature, and that the first roads to be worked shall be from the County seat to the boundary line of the County, and shall intersect as nearly as possible at right angles, the roads to be first worked being selected by the Supervisor and County Commissioners.

How roads to be made.

Sec. 1847. That nothing herein shall be construed as prohibiting the Supervisor and County Commissioners and County Road Engineer from repairing any bridge or passable road, either by use of portion of chaingang, or by contract.

Repair of roads.

DARLINGTON COUNTY.

Sec. 1848. The Board of County Commissioners of Darlington County are hereby empowered, directed and required to adopt such methods in working and repairing highways and bridges of Darlington County as in their discretion they deem best. They are authorized to use the present overseer system now used, or to change the same and use any method they deem better.

Commissioners may work roads as they deem best in Darlington County.

1908, XXV, 1197.

Sec. 1849. The Board of County Commissioners shall summon out all road hands who have failed to pay the commutation tax, at such time or times and in such manner as they think most beneficial to the public service: *Provided, however,* That all persons subject to road duty shall not be required to work on any road or highway outside of the township in which he lives.

Road hands to be summoned.

Sec. 1850. All commutation taxes collected shall be expended in the Township from which the taxes are collected.

How commutation tax shall be spent.

Sec. 1851. It shall be the duty of the County Supervisor and Commissioners, in addition to the reports now required by law, to make a report in full of the total amount spent during the year, for each item mentioned in the estimate to

Report of expenditures to be published.

A. D. 1912.

the Comptroller-General, and publish the same in paper published in Darlington County, the first January.

EDGEFIELD COUNTY.

Employment
of chaingang
in Edgefield
County.

1900, XXVI,
155.

Contracts
for road work

Special levy
for roads.

Width of
roads.

Commuta-
tion tax to be
spent in town-
ship in which
collected.

Sec. 1852. That the County Board of Commissioners of Edgefield County are hereby required to employ chaingangs of said County in laying out, building and constructing and maintaining permanent roads, and the said Board may employ a competent engineer to lay off all such roads for permanent work when in their judgment it is necessary.

Sec. 1853. As a supplement to the chaingang work of the County of Edgefield, the County Board of Commissioners of said County are hereby authorized and directed to employ practical to have the roads worked by contract, or by overseer plan, or by combining several road districts, or by employing superintendents of work, and all roads which have failed to pay the commutation tax are hereby required to work under the direction and control of a person appointed or designated by the Supervisor or Board of Commissioners of said County of Edgefield.

Sec. 1854. That in the County of Edgefield there shall be annually levied and collected a tax of one-half for road purpose, one-half of which shall be used in the township in which it is collected, and the other half shall be used as a general road fund, which may be used to purchase machinery, tools, appliances and stock and to supplement other road funds.

Sec. 1855. The roadbeds of all roads heretofore laid out after laid out, shall be not less than eighteen nor more than twenty-four feet wide, exclusive of side ditches, roads and other obstructions, unless otherwise ordered by the Board of Commissioners.

Sec. 1856. All commutation tax collected shall be expended by the Board of County Commissioners upon the public roads in the Townships where the commutation tax is collected.

FAIRFIELD COUNTY.

Sec. 1857. For the purpose of working and improving the public roads and highways in Fairfield County the County Commissioners of said County shall employ

nt road engineer to survey and lay off all the public
s of said County, in sections of from one to ten
s, post the same, number said sections, prepare plans
specifications for the working and improvement of
sections, and perform such other duties as the Board
require, and whose salary shall not exceed fifteen hun-
dollars per annum.

A. D. 1912.

Highways in
Fairfield
County.1910, XXVI.
705.

c. 1858. Said County Commissioners shall, as soon as
licable, let to the lowest responsible bidder or bidders,
working and keeping in repair for a period of twelve
ths all public roads in said County, not heretofore
ut, or improved by the County, including the keeping
repair of all ground bridges and bridges over small
ams. The person, firm or corporation bidding off a sec-
of road shall build or work the same as prescribed by
plans and specifications, and within the time prescribed
e contract, and shall keep the same in repair for a period
welve months from the date of the certificate of accept-
of the work by the County Road Engineer.

Work to be
let by bid.

he Clerk of the County Commissioners shall keep a
iled account of all contracts and other transactions in
rd to various sections in a book specially provided for
purpose, which shall at all times be open to public
ection.

c. 1859. When a contractor completes the working of
ction of road, as required by the plans and specifications,
working the same and within the time prescribed in his
ract, the County Road Engineer shall certify the same
he Board of County Commissioners, and said Board
, upon receipt of said certificate, pay the contractor
ty per cent. of the contract price for working and
ntaining said section. They shall retain the remain-
twenty per cent. of the contract price, and for a period
welve months from the date of said certificate, as a guar-
ee the contractor will keep in repair his section of road
a period of twelve months. That it shall be unlawful
said County Commissioners to advance or pay over to
contractor, on account of any road contract, any part
he contract price of any section of road, until the same
been completed, as required by the plans and specifi-

How work
paid for

A. D. 1012.

cations of the road engineer, and the contractor the certificates of said engineer.

Penalty for failure to do work.

Sec. 1860. Should any contractor fail or refuse his section of road in proper condition, or fail or work or repair the same, when ordered to do so by the County Board of Commissioners, or the County Engineer, he shall forfeit to the County all balances owing unpaid upon his contract, and the said Commissioners shall take charge of all such sections of road, and working or maintaining the same, or shall work and maintain the same with the road outfit owned by the

When roads may be worked by County.

Sec. 1861. Should the County Board of Commissioners be unable to contract for the working and maintaining of any of said public roads at prices within the estimate by the County Engineer, they are authorized and to work such roads under the supervision of the Engineer and for that purpose they are authorized to use the outfit now owned by the County, and to purchase additional outfit, if necessary. In case it becomes necessary the County to work said roads, or any section thereof, the same shall be done under the supervision of the County Engineer: *Provided*, Any contract for material to be used must be first approved by the Board of County Commissioners, who shall employ all labor, and be responsible therefor.

Tax list.

Sec. 1862. It shall be the duty of the County Auditor to see that the names of all persons liable for said road tax of two dollars are entered upon his tax list, and that the same is placed in the hands of the County Treasurer for collection.

Road fund.

Sec. 1863. The fund for roads and bridges shall consist of all moneys raised by the two-dollar road tax, and provided for, all income from the hire of convicts and fines and penalties imposed by the Circuit Judges, in the term of General Sessions, and by the Magistrates in the Magistrates' Courts; said fund shall be kept separate from all ordinary County funds by said County Treasurer.

Supplies to be let to lowest bidder

Sec. 1864. That said County Commissioners shall let the lowest competent bidder the furnishing of all supplies

HAMPTON COUNTY.

A. D. 1912.

c. 1885. There shall be annually collected in the County of Hampton on all real and personal property a Special tax in Hampton County.
 of one and one-half mills for road and bridge purposes, two-thirds of which shall be used in the Township in which it is collected, and the other one-third shall be used in the general road fund, which may be used to secure machinery, tools, appliances and stock, and to supplement other road fund, and the Supervisor is hereby authorized to have the roads worked by contract or by the overseer plan, or by employing superintendents of work, and road hands shall be required to work under any person directed by the Supervisor when they shall have failed to pay the commutation tax, and it shall be the duty of the Supervisor, and he is hereby required, to keep a separate account with each Township. 1910, XXVI, 674.

c. 1886. Where the roads are worked under the contract system, the Supervisor shall require a suitable bond Work under contract.
 for the faithful and satisfactory fulfillment of said contract, and where said roads are worked under the overseer system, the said overseer shall make to the Supervisor a written itemized statement, showing to whom the money is paid, and the kind and extent of work done; said statement to be filed with the said Supervisor within thirty days after the time it is placed in his hands, and it shall be especially the duty of the Supervisor, and he is hereby required, to see that the funds herein provided for are promptly and economically expended on the roads which are entitled to receive them. The Supervisor is hereby required to keep a separate road fund account with each Township in said County, and said accounts shall be submitted to the grand jury for their inspection at each session of the Court of General Sessions.

LANCASTER COUNTY.

c. 1887. For the purpose of working and improving Lancaster County may employ an engineer to lay out roads.
 public roads and highways in Lancaster County, the Supervisor and County Commissioners of said County shall employ a competent road engineer to survey and lay out all the public roads of said County in sections of from 1908, XXV, 1170.

A. D. 1912.

ary and July of each year, when said claims are properly certified to by said road engineer.

1872. The compensation of the road engineer herebefore provided for shall be fixed by the Supervisor and County Commissioners. His compensation.

1873. The road engineer shall devote his whole time to the work of laying out the road in sections, making plans for road improvement, inspecting the work done on the contracts awarded, and furnishing plans and specifications for the building and repair of bridges to the Supervisor and County Commissioners. Said road engineer shall give bond in the sum of three thousand dollars for the faithful performance of his duties hereunder, said bond to be approved by the Clerk of Court. Duty of road engineer.

1874. That the County Treasurer shall, prior to the 1 of each year, report to the County Commissioners the total amount of road tax received and the name of each person who has paid said tax. Treasurer to report total tax.

1875. That when a contractor completes the work on a section of road, as required by the plans and specifications, for working the same and within the time prescribed in his contract, the County road engineer shall certify the same to the Board of County Commissioners, and the Board may upon receipt of said certificate pay the contractor eighty per cent. of the contract price for working and maintaining said section. They shall retain the remaining twenty per cent. of the contract price, and for a period of twelve months from the date of said certificate, as a guarantee that the contractor will keep in repair his section of road for a period of twelve months. It shall be unlawful for said Commissioners to advance or pay over to any contractor, on account of any road contract, any part of the contract price of any section of road, until the same has been completed, as required by the plans and specifications of the road engineer, and the contractor produces the certificates of said engineer. How contractor paid.
1910, XXVI.
142.

1876. Should any contractor fail or refuse to keep any section of road in proper condition or fail or refuse to work or repair the same when ordered to do so, by the County Board of Commissioners or the County road engineer, he shall forfeit to the County all balances remaining Contractor shall forfeit all balances for failure to work roads.

A. D. 1912.

one to five miles, post the same, number said sections on a map thereof, prepare plans and specifications for the working and improvement of said sections for a term of one year.

Supervisor shall let repairs of roads to the lowest bidder.

Sec. 1868. That during the month of July, each year, the Supervisor and County Commissioners shall let to the lowest responsible bidder the improvement and repair of said sections of roads, including the repair of all bridges over ditches and small streams on each of said sections. Each person bidding off on said sections to give bond in the sum of fifty dollars for each mile of road bid off. Said Commissioners shall give usual public notice of the letting of the said roads.

Clerk of County Commissioners to keep accounts

Sec. 1869. The Clerk of the County Commissioners shall keep a detailed account of all contracts and other actions in regard to the various sections in a book provided for that purpose, which shall at all times be open to public inspection.

County Auditor to enter road tax.

Sec. 1870. It shall be the duty of the County Auditor to obtain the names of all persons in the County liable for road duty and to compare the same with his tax list, and to enter and levy the said road tax the same as other taxes are levied and entered: *Provided*, That said road tax shall be in lieu of all road work now required by law to be performed annually.

Moneys paid to be paid by Treasurer.

Sec. 1871. All moneys expended by said Supervisor and County Commissioners for maintenance and improvement of roads and building and repair of bridges shall be paid by the County Treasurer of said County from the fund for roads and bridges, which shall be kept separate from the ordinary County fund, after the same have been audited and approved by the Supervisor and County Commissioners and a warrant for the same: *Provided*, That no claim for such expenditures shall be approved unless accompanied by a certificate of the road engineer that the work has been done in accordance with the plans and specifications under which the contract for said work was awarded: *Provided, further*, That no moneys for contract work on roads may be made

A. D. 1912.

January and July of each year, when said claims are properly certified to by said road engineer.

Sec. 1872. The compensation of the road engineer heretofore provided for shall be fixed by the Supervisor and County Commissioners. His compensation.

Sec. 1873. The road engineer shall devote his whole time to the work of laying out the road in sections, making surveys for road improvement, inspecting the work done under the contracts awarded, and furnishing plans and specifications for the building and repair of bridges to the Supervisor and County Commissioners. Said road engineer shall give bond in the sum of three thousand dollars for the faithful performance of his duties hereunder, said bond to be approved by the Clerk of Court. Duty of road engineer.

Sec. 1874. That the County Treasurer shall, prior to the first of January of each year, report to the County Commissioners the total amount of road tax received and the name of each person who has paid said tax. Treasurer to report total tax.

Sec. 1875. That when a contractor completes the work on a section of road, as required by the plans and specifications, for working the same and within the time prescribed in his contract, the County road engineer shall certify the same to the Board of County Commissioners, and the Board may upon receipt of said certificate pay the contractor eighty per cent. of the contract price for working and maintaining said section. They shall retain the remaining twenty per cent. of the contract price, and for a period of twelve months from the date of said certificate, as a guarantee that the contractor will keep in repair his section of road for a period of twelve months. It shall be unlawful for said Commissioners to advance or pay over to any contractor, on account of any road contract, any part of the contract price of any section of road, until the same has been completed, as required by the plans and specifications of the road engineer, and the contractor produces the certificates of said engineer. How contractor paid.
1910, XXVI,
142.

Sec. 1876. Should any contractor fail or refuse to keep a section of road in proper condition or fail or refuse to work or repair the same when ordered to do so, by the County Board of Commissioners or the County road engineer, he shall forfeit to the County all balances remaining Contractor shall forfeit all balances for failure to work roads.

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Commission-
ers may work
roads if no
contract can
be let.

unpaid upon his contract, and said Commission-
take charge of all such sections of road, and rele-
ing or maintaining the same, or shall work and
the same with the road outfit owned by the County.

Sec. 1877. Should the County Board of Com-
be unable to contract for the working and main-
any of said public roads at prices within the esti-
by the County Engineer, they are authorized and
to work such roads under the supervision of the
and for that purpose they are authorized to use
outfit owned by the County and to purchase an
outfit, if necessary. That in case it becomes ne-
the County to work said roads, or any sections of
same shall be done under the supervision of the
engineer, who shall employ all labor, and be
therefor.

Special tax.

Sec. 1878. There shall be a tax of four mill
all real and personal property situated in said
Said taxes shall be levied and collected in the same
and at the same time and place that other County
levied and collected.

Road tax list.

Sec. 1879. It shall be the duty of the County
to see that the names of all persons liable for said
of three dollars are entered upon his tax list and
same is placed in the hands of the County Treas-
collection.

**Fund for
roads and
bridges.**

Sec. 1880. The fund for roads and bridges
sist of all moneys raised by the four mill levy and
dollar road tax, above provided for, all income
hire of convicts and all fines and penalties imposed
Circuit Judges, in the Court of General Sessions,
Magistrates, in the Magistrates' Courts; said fund
kept separate from the ordinary County fund
County Treasurer.

**Supplies to
be let to low-
est bidder.**

Sec. 1881. That said Commissioners shall
lowest competent bidder the furnishing of all
except when the same is purchased of wholesale
wholesale prices.

**Commission-
ers may bor-
row.**

Sec. 1882. That said Commissioners are au-
borrow, for the purpose of putting all the property
in good condition, at once the sum of twenty

A. D. 1912.

ars, if so much be necessary, and to pledge the taxes levied hereunder, as security therefor: *Provided*, That money shall be borrowed except as it is needed to pay work done or supplies furnished.

WILLIAMSBURG COMPANY.

c. 1883. The County Delegation and Clerk of Court of Williamsburg County shall appoint a Road Engineer of Williamsburg County for the term of two years and until his successor is appointed and qualified, and said Road Engineer shall be subject to suspension and removal in the discretion of said Delegation and Clerk of Court; and before entering upon the discharge of the duties said engineer shall enter into bond for the use of said County, with three or more sufficient sureties, in the sum of five thousand dollars for the faithful performance of all his duties, said bond to be approved in same manner as now provided for bonds of County Auditor, and shall receive a salary of twelve hundred dollars per annum, to be paid by said County in monthly installments at the end of each month.

Road engineer in Williamsburg County.

1908, XXV, 1192.

c. 1884. Said Road Engineer shall be a man versed in civil engineering and in road engineering, building and repairing, and shall have general and exclusive jurisdiction over all public highways, roads, bridges and ferries, and the chaingang of said County; and that with respect to said public highways, roads, bridges and ferries and chaingang the duties, powers, authority and liabilities now given and imposed upon the County Supervisor and County Commissioners of said County are hereby given and imposed upon said Road Engineer, except such changes and alterations as to said duties, powers, authority and liabilities as may be made herein, and for failure to faithfully perform all the duties of his office or the condition of his bond he shall be liable and subject to all the provisions of Section 967 of the Civil Code of 1912, with respect to County Supervisor.

His qualifications.

c. 1885. Said Road Engineer shall employ guards for the chaingang and purchase food for the convicts, and all necessary tools, implements, work animals, wagons and machines for proper road and bridge building, and repair, and all accounts for the hire of said guards and pur-

Duties.

A. D. 1912.

chase of said articles and things shall be certified and correct, in writing, by said Road Engineer. The same shall be approved by the Auditing Board.

Licenses to go to road fund. Sec. 1886. All moneys collected by the Clerk for licenses of all kinds shall go into the general bridge fund of said County.

Report of road tax. Sec. 1887. The County Treasurer shall, prior to the first of each year, make report in duplicate to the County Commissioner and the Road Engineer of the total amount of commutation tax received and the name of each person who has paid said tax, together with the section of the Township in which and the Township in which said person resides.

Road fund. Sec. 1888. All moneys belonging to the road fund over and above the amount necessary to maintain all bridges that are built and maintained by contract shall be expended upon the roads of the several Townships in direct proportion to the amount collected in each Township for said fund, and the commutation tax shall be expended upon the section of road nearest to the residence of the person paying resides.

Road estimate. Sec. 1889. At the beginning of each year the Road Engineer shall make a careful estimate of the amount that will be necessary for the building and maintaining of all bridges that are built and maintained by contract. He shall file his report to the County Commissioner; and the County Commissioner shall keep an account of the funds expended, estimated separate and distinct from the account of the remainder of the general road and bridge fund. The account being designated as "Bridge Account," and the other as "Road Account;" and the said County Commissioner shall, not later than the twentieth of each month, report to the Road Engineer the amounts expended and the amount on hand belonging to each said "Bridge Account" and "Road Account."

Plans for bridges. Sec. 1890. Of each bridge now required by law to be built out by contract, the said Road Engineer shall prepare the plans and specifications and estimate of cost in duplicate. After the contract is let, shall file one of the duplicates in the office of the County Commissioner, which shall be open to the inspection of the public; and notice of letting shall be given as now provided by law.

A. D. 1912.

Duties of
engineer.

Sec. 1891. The Road Engineer shall divide and mark off roads in each Township into sections of convenient size, and designate each section by number; and shall make care-ful plans and specifications of the materials and work and manner of using said materials and performing said work necessary to put each section in good condition in all respects, including all bridges costing not more than ten dollars; and after the contracts as to said sections have been let, he shall file a copy of said plans, specifications and estimate in the County Commissioner's office for public inspection.

Sec. 1892. After the division of the roads and the preparation of the plans, specifications and estimates above mentioned, said Road Engineer shall advertise for at least seven days, in some newspaper published in said County, at some time and place in the Township at which the contracts for building and repairing the section of roads in such Township shall be let; and at said time and place he shall publicly let the contract for each section to the lowest responsible bidder and furnish to the bidder securing the contract a copy of the plans and specifications for said section, but the estimate shall in no case be divulged before the contract be let.

Bids for road
repairs to be
advertised.

Sec. 1893. The person securing the contract mentioned in Section 1892 shall, in carrying out his contract, call out and employ all the road hands belonging to his section who do not produce at his request receipts for their commutation tax for the year, when so called out; and the Road Engineer when issuing his certificate on said contract shall deduct from the contract price at which said contract was let the sum of two dollars for each road hand so worked by said contractor.

Contractor
may work
road hands.

Sec. 1894. Upon the completion of a contract, let under Section 1892, in every detail the said Road Engineer shall receive the same and issue his certificate to the County Commissioner, certifying the completion of said contract as aforesaid and the amount due thereupon, and after the same shall have been approved, the County Commissioner shall issue his warrant for the payment thereof upon the County Treasurer, and shall charge to the "Road Account" of the Township in which said section is situated the portion of

Payment on
completion of
contract.

A. D. 1012.

the amount due on said contract in excess of the amount belonging to said section from commutation tax.

Road account.

Sec. 1895. All accounts against the road and bridge shall be certified by the Road Engineer; and said Engineer shall not let contracts or make purchases at any time in excess of the amount belonging to the "Road Account" or "Bridge Account."

Powers of Auditing Board.

Sec. 1896. All the duties, privileges and authorities required of and given to the County Commissioner for the opening and closing of roads of said County, are required of and given to the Auditing Board of said County.

YORK COUNTY.

Township Supervisors in York County.

Sec. 1897. Upon the recommendation of a majority of the legislative delegation in the General Assembly, the Governor shall appoint a man in each Township, known as the Township Supervisor, who shall serve for four years, or until his successor is appointed and qualified, unless sooner removed by resolution or act of the General Assembly, or for cause by the Governor. He shall give bond, either personal or in some approved surety company, payable to the County Treasurer for the benefit of the Township in the sum of five hundred dollars for the faithful discharge of his official duties.

How roads to be worked.

Sec. 1898. It shall be the duty of the Township Supervisor annually, before the 15th day of March, to ascertain the names of all persons living in his Township liable for road duty, and file with the County Supervisor an alphabetical list of the same. The County Supervisor shall receive with file said list with the County Auditor, who shall examine same, after making any corrections or additions, and keep the same in his office, with the County Treasurer. The Township Supervisor may let contracts for the work on all sections of roads and the construction and repair of bridges in his Township not over fifteen feet in length, and shall pay from his Township fund all damages resulting from defects in said bridges, and shall co-operate with the County Supervisor in letting all contracts for the work on all sections of roads in his Township costing over ten dollars. He shall see that the law in reference to keeping

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streams free from rafts is complied with in his Township. He may appoint not over four road overseers in his township, at not exceeding \$2 per day for each day actually worked, to superintend and have worked those sections of roads which he has not worked himself, or which have not been let to a contractor to be worked. He may, after the first day of July of each year, assign any person liable for road duty, who has not paid his commutation tax in lieu thereof, to the control of any of said road overseers to work on any sections of roads in the Township which he may direct. He may also hire hands, at not exceeding \$1 per day, to work on said sections of roads, either under his direction or under the direction of his overseer. The Township Supervisor shall, when so requested, give his receipt to all such persons who may have worked out their full road duty, and it shall be valid in the County for that year.

Sec. 1899. Each Township Supervisor, jointly with the County Supervisor, shall expend the Township road fund, ^{How funds expended.} belonging to his Township, hereinafter provided, for the improvement and maintenance of the public roads in his township, for the construction of such bridges as are not over fifteen feet in length. He shall personally inspect all work done on the public roads of his Township, by contract or otherwise, and shall vouch for and approve every claim against his Township road and bridge fund, and where the amount exceeds twenty dollars he shall submit same to the County Supervisor for his approval. No Township Supervisor, with or without the approval of the County Supervisor, shall expend annually more than the amount of funds belonging to his Township road and bridge fund, and no Township Supervisor shall present any claim, directly or indirectly, for any material, hands or teams furnished by himself, nor shall the overseers render bills for teams furnished by himself: *Provided, however,* That the contracts for construction and repair of all bridges in the County over fifteen feet in length shall be awarded as now prescribed by law, and that all such bridges shall be paid for out of the County bridge fund.

Sec. 1900. Each Township Supervisor may purchase for ^{Purchase of machinery.} the Township from the Township road funds hereinafter provided for such machines, road plows, scrapes and tools

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as may be necessary, or hire teams, for the purpose of repairing and maintaining the roads in a good condition. *Provided*, He shall make no purchase or let any contract for over twenty dollars without the approval of the Township Supervisor. He shall be responsible for the Township machine, implements and tools, and shall render an annual statement April 1, 1910, and each year thereafter to the County Supervisor for file in his office, showing the amount expended and the value of implements, etc., on hand.

Township
road fund.

Sec. 1901. The Township road fund shall consist of the funds arising from the two mill tax levy now provided by law and hereinafter mentioned; (b) the commutation tax for said Township; (c) and any funds arising from any special or special tax, or otherwise, for roads and bridges of said Township for road purposes.

Per diem.

Sec. 1902. Each Township Supervisor shall receive for his service the sum of \$3 per day, not exceeding six dollars for services actually rendered in each year; the cost of such services shall be itemized by him and approved by the County Supervisor, and paid monthly out of the Township road fund by the County Treasurer.

Apportion-
ment of
taxes.

Sec. 1903. The County Treasurer shall, from time to time, as collected, place to the separate credit of each Township, in a ledger kept for that purpose, any and all taxes raised in said Township by the two-mill tax levy for roads and bridges, except that part of same derived from the two mill tax on insurance companies, express companies, telegraph and telephone companies, railroads and other corporations, which do not return their property by assessment, which shall be kept as a separate County fund for the building and repair of bridges, all sums received from the commutation tax, special tax for road purposes, and from other sources for road and bridge purposes. Each Township road fund is to be kept separate and paid out as hereinafter provided, and the Treasurer shall make annual settlements with the Township supervisor and County Supervisor for the fund belonging to each Township for road and bridge fund.

Disbursement
of funds.

Sec. 1904. The salary of each Township Supervisor shall include all labor hired by him, all moneys due on contracts for the purchase of materials and machines, for contract work

the maintenance and improvement of roads, and building and repair of bridges, as hereinbefore provided, shall be paid by the County Treasurer from said Township's road and bridge fund, after the sworn itemized bills for the same have been approved by the Township Supervisor and audited and approved by the County Board of Commissioners, and upon the County Supervisor's warrant for same drawn upon said Township's road and bridge fund: *Provided*, That no claim for work done under contract on any section of road or bridge shall be approved unless accompanied by a certificate from the Township Supervisor and County Supervisor, that the work has been done according to plans and specifications under which the contract for said work was awarded: *Provided, further*, That the County Board of Commissioners shall keep a separate warrant book for each Township road and bridge fund and for the County bridge fund, and shall issue all warrants for the payment of claims on said Township's road and bridge fund out of said Township's warrant book, and shall issue all warrants for the payment of claims for building and repair of bridges due by the County, on said County bridge fund.

Sec. 1905. The Clerk of the County Board of Commissioners shall keep, in files specially provided for that purpose, all approved bills or vouchers which have been paid by warrant upon any of said Township road and bridge funds, each Township's vouchers to be kept in a separate file and numbered so as to conform with the number of the warrant by which it is paid. Filing vouchers.

Sec. 1906. The County chaingang shall be used in opening, building, grading and repairing three of the main highways of the County; one of the said roads to run from the most practicable point on the County line between Lancaster and York Counties, through the city of Rock Hill, through the town of Yorkville, and on to the most practicable point on the County line between Cherokee County and York County; another of said roads to run from the most practicable point on the County line between Chester and York Counties through McConnellsville, through the town of Yorkville, through Clover and on to the most practicable point on the line between York County and North Carolina; another of said roads to run from the most practicable point Chaingang.

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on the York County line through the town of Rock Hill, then as near as practicable a straight line to the Rock Hill, then through the Blackjack section to Rock Hill: *Provided*, That any of the Townships in York County which neither of said roads runs into or through shall receive a proportionate part of the work of the chaingang in such Township on such road or roads as the Township Supervisor of said Township and the County Commissioners may determine upon: *Provided*, No work shall be done by the chaingang where a sand or gravel road is practicable, and sand, gravel and stone shall be put down by the chaingang if the same be furnished by the Township Supervisor or otherwise: *Provided*, The work and control of the chaingang shall at all times be under the exclusive supervision and direction of the County Supervisor, and the time or rotation of the work on said roads above referred to shall be entirely within the discretion of the County Supervisor and County Commissioners, and that in selecting the roads to be so opened, graded and repaired the County Commissioners and County Supervisor shall have in view the greatest good to the greatest number of people.

County Supervisor to co-operate with Township Supervisor.

Sec. 1907. The County Supervisor, while so working on public highways, shall co-operate with the Township Supervisor in each Township through which the highways pass; and when said work is completed by the chaingang the Township Supervisor for that Township shall keep the same in repair.

Engineer.

Sec. 1908. The County Board of Commissioners shall employ an engineer and an expert bridge builder at such time as in their judgment may be necessary, fix their compensation and prescribe their duties and powers.

Bridges.

Sec. 1909. Highways in the County where bridges are to be rebuilt, over streams of thirty-five feet or over in width shall be spanned by stone or concrete piers or abutments, and span the same with an iron or steel or reinforced concrete bridge, erected and repaired over two annually unless made absolutely or provided otherwise necessary. They may let contracts, after public notice, for the erection of the piers or abutments or reinforced concrete bridges, or use the chaingang for said purposes if in their judgment it can be cheaper done; and all costs

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iron or steel spans shall be let to the lowest responsible bidder, as per plans and specifications furnished by the engineer. They shall let all contracts for other bridges or public work, after notice, to the lowest responsible bidder, when the amount is likely to exceed twenty dollars; and the County Supervisor and engineer, when employed, shall personally inspect all work done under contract, and unless the contract is fully complied with the claim shall not be valid; and all claims shall be approved by the County Supervisor, certified to by the engineer, when employed, and approved by a majority of the Board of County Commissioners, before being paid by the County Treasurer. All such claims shall be paid out of the County bridge fund. The County Supervisor shall thoroughly inspect the work of each Township Supervisor once a year and report the progress of the work by sections, noting the deficiencies, if any, and incorporate the same in his annual report, and file a copy of the same in his office.

Sec. 1910. The County Supervisor is hereby required to publish an annual report January 1st of each year of the operation of the chaingang, showing the total expense, number of miles and kinds of roads constructed or repaired, cost per mile, the time employed, and the value of all stock, machines, and the equipments of the chaingang. He shall have Township maps of each Township, showing, by sections, numbered, the location of roads, bridges, etc., for the use of the Township Supervisor. Annual report of Supervisor.

Sec. 1911. The County Supervisor shall keep his office open at least one day in each week. He shall keep on file all of his reports, and the reports of the Township Supervisors, in a systematic order, for the inspection of the grand jury and the public. He shall call a meeting of the Township Supervisors the first Monday of April, 1909, and the Wednesday after the first Monday of January each year thereafter, to be held in his office, for conference, interchange of views for working roads, and making suggestions for the improvement of the system. County Supervisor's office.

Sec. 1912. The Clerk of the County Commissioners shall keep a detailed account of all transactions in regard to the various sections, in a book specially provided for that purpose, which shall at all times be open to public inspection. Clerk of County Commissioners keep accounts.

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pecial tax.

Sec. 1913. For the maintenance and improvement of public roads and highways under the direction of the supervisor and County Commissioners, and for the building and repair of all bridges in said County, there shall be levied an annual tax of two (2) mills on all real and personal property, which shall be levied and collected as a special tax and at the same time. In addition to above taxes, two mills on real and personal property, for roads and bridges, there shall be a road tax of three dollars on each citizen in said County between the ages of eighteen and fifty-five years, which road tax shall be collected as a special tax and at the same time as other taxes are collected.

County Auditor to make
levy.

Sec. 1914. It shall be the duty of the County Auditor to obtain from the County Supervisor the names of all persons in the County liable for road duty and to compare the same with his tax list, and to enter and levy the said road tax at the same time as other taxes are levied and entered.

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CHAPTER XXIX.

Water Courses and Cuts.

5. Power of County Board of Road Commissioners over water courses and cuts.
6. To keep same in repair in highways.
7. To keep open for navigation; regulations as to.
8. To remove and keep free from obstructions.
9. To keep banks and causeways in repair and above highwaters.
10. May cause new channels to be opened; when and in what manner.
11. May open and repair new channels at certain points.
12. May use road hands or contract for labor in making repairs, etc.
- Sec. 1923. Owners may erect dams; conditions; power of County Commissioners as to.
1924. Where owner of mill dam entitled to compensation for use of stream; proceedings where parties do not agree; exception.
1925. Fish traps, etc., near dams; when unlawful; penalty.
1926. Streams ordered to be made navigable not to be obstructed by dams, etc.
1927. Bridges not to obstruct navigation of rivers; penalty.
1928. Obstructing bridges to be removed or to have draw-spans; requirements as to; penalties, etc.

Section 1915. The County Board of Commissioners of the several Counties of this State shall have and exercise the same powers over the navigable streams, water courses and cuts, within the limits of their respective Counties, as they have over the highways and bridges therein, except the same are herein modified.

Power of County Board of Commissioners over water courses and cuts.

Clv. '02. § 1402

Sec. 1916. The said navigable streams, water courses and cuts shall be taken and deemed as highways, and the County Board of Road Commissioners shall take charge and keep the same in repair at all times.

To keep same in repair as highways.

Clv. '02. § 1403

Sec. 1917. It shall be the duty of the County Board of Commissioners to see and ascertain from time to time that the said water courses and cuts, and the mouths or entrances thereof, are open and free to the customary navigation for boats drawing not more than four feet of water, except such times as may be necessary to close the same for the purpose of repair or other necessary work; but in no case shall the said water courses or cuts be closed so as to prevent the free passage of such boats for a longer period than six consecutive months, or without thirty days' previous

To keep open for navigation; regulations as to.

Clv. '02. § 1404.

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notice, signed by the County Supervisor, and published in at least one newspaper in the County wherein such courses or cuts may be situated; and if the said courses or cuts are within the limits of Charleston, then such notice shall be published in at least one of the daily newspapers in the City of Charleston.

Sec. 1918. The said County Board of Commissioners shall see and provide that no logs, stumps, sand-bars, marshes, mud-banks, or any other obstructions to the free, safe, and convenient passage of such boats at usual time of tide, be allowed to remain in the said courses, or in the said cuts, so as to prevent navigation.

Sec. 1919. They shall keep, or cause to be kept, in repair and good condition, the banks or causeways of the water courses and cuts where such banks or causeways are necessary, so that they shall be above tide-water, and shall be free from all such breaks, sluices, or other obstructions as may be an impediment to their uses and objects.

Sec. 1920. The County Board of Commissioners shall have full power and authority to appoint special commissioners, who may cause to be opened any new channels through such projecting points of marsh lands as may obstruct and delay the navigation of the said water courses and cuts, and the proprietor or owner of the said marsh lands shall be entitled to such reasonable compensation for the appropriation of the said land to the public use as may be deemed a fair equivalent by three discreet and disinterested citizens, to be selected by the mutual consent of the said special Commissioners and the said proprietor or owner.

Sec. 1921. The County Board of Commissioners shall be authorized and empowered, for the better navigation of the water courses and cuts, to make, open, dig out, clear, and keep in repair new channels through such points of marsh lands as may project out, and, by forming curves or banks, shall not impede the transit of such boats.

Sec. 1922. The County Board of Commissioners shall be authorized and empowered to keep the said water courses and cuts in repair, and to dig out, clear, cleanse, straighten and make navigable the same, either by the labor of such male inhabitants as shall be liable

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the public highways, or by contract with one or more persons; and they shall also have all such work done as from time to time be expedient and necessary for the preservation and use of the said water courses and cuts notwithstanding such work be not designated in this Chapter.

Sec. 1923. It shall be lawful for owners of lands on streams to erect mill dams across the same: *Provided*, Owners may erect dams: proviso.
 and construct and keep in repair sufficient locks, or slopes, Civ. '02, § 1410.
 canals, in or around such mill dams, to admit their free navigation for rafts of lumber and timber: *And provided* further, That the County Supervisor and County Board of Commissioners are hereby authorized and empowered to direct the construction of sufficient fish ways in such dams they may deem necessary.

Sec. 1924. In all cases in which mill owners shall have erected their mill dams on such streams antecedent to their Proceedings to remove mill dams for purposes of navigation.
 for the purposes aforesaid, at the points at which such Civ. '02, § 1411.
 dams have been or may be erected, it shall be lawful for all persons, who may desire, to use such streams for the purposes of navigation as aforesaid, upon payment to such owner of a compensation to be determined by the parties themselves. But if the parties cannot agree, it shall be the duty of any neighboring Magistrate, at the instance of any person desiring to use such streams for the purposes of rafting of rafts of lumber and timber, to call to his assistance four neighboring freeholders, two to be selected by the mill owner and two by the applicant; and the said Magistrate and freeholders shall determine the amount of compensation to be paid by such person desiring to use such dam, subject to the right of appeal to the next Court of Common Pleas for the County in which the mill may be situated: *Provided*, That nothing herein contained shall be construed to extend to the navigation of Big Horse Creek, above the point at which the waste water of Bath Mills turns to the old bed of said creek: *Provided, nevertheless*, that nothing herein contained shall be held or deemed to apply to any stream or water course within the corporate limits of the City of Charleston.

compensation.—Witt v. Jeffcoats, 10 Rich., 389.

Sec. 1925. It shall not be lawful for any person whomsoever, at any time, to erect or keep up any fish trap or other

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No fish traps
to be kept up
near dams on
any navigable
streams; pen-
alty.

Civ. '02, §
1412.

As to certain
Counties in
certain sea-
sons, XVI,
392; extend-
ed, XVI, 718;
time changed,
XVI, 724;
protection of
migratory
fish, XVI, 580.

device for catching fish, or to fish with any net within eighty yards of any dam, erected by the or the expense of the State, across any stream intende to be made navigable, in which dams there shall constructed any sluice for the passage of fish; and every person or persons offending against this Sect for each and every offence, pay the sum of twelve to be recovered before any Magistrate of the Court the offence may have been committed; one-half penalty shall go to the informer, and the other h support of the work to which the dam is attached traps and other devices for catching fish, erected o in violation of this Section, are hereby declar nuisances, and may be treated as such.

Boatwright v. Bookman, Rice, 447.

See Criminal Code for penalty for obstructing streams by fish t

Streams or-
dered to be
made naviga-
ble not to be
obstructed.

Civ. '02, §
1413.

Sec. 1926. It shall not be lawful for any perso up or erect any dam, except as provided for by Sec of this Chapter, across any river which the Legisl ordered to be made navigable, or for improving v Legislature has made any appropriation, so as to the passage of boats or rafts of timber and lumber and in case any dam, hereafter to be erected, sh immediately taken down and opened, when requir County Board of Commissioners, the same shall th be regarded and taken to be a public nuisance, and may be abated as such; and the person erecting ing up the same shall, on conviction thereof, be fi discretion of the Court, in a sum not exceeding five dollars, for the use of the navigation of the riv the said nuisance exists.

Bridges not
to obstruct
navigation.

Civ. '02, §
1414.

Penalty.

Sec. 1927. No person or persons or corporation State shall keep or cause to be kept, put or cau placed, any bridge over and across any of the rivers within this State, so as thereby to injure o the free navigation of said rivers; and every su or persons or corporations so offending shall fo each and every such offense, the sum of two hun lars for each day that such bridge may be so kept as an obstruction to said free navigation, for the State.

c. 1923. Any railroad company or other corporation in this State which may now have any bridge over and across any navigable river in this State too low for the purposes of free and unobstructed navigation be, and they are hereby, required to remove the same, or to so construct and manage draw spans in said bridges as will secure safe and unobstructed navigation of said stream; which said spans shall not be less than sixty (60) feet in width in the clear, and shall be properly located with reference to the water and the convenience of navigation, and shall be provided on both sides of the span with strong and substantial fenders extending to not less than one hundred and fifty (150) feet above and not less than eighty (80) feet below the bridge, and rising above ordinary high water mark to within not less than one foot of the lower chords of said spans. And upon failure to do so, said railroad company or other corporation shall forfeit for each and every day that said bridge may remain too low for free and unobstructed navigation the sum of two hundred dollars, to the use of the State: *Provided*, That this Section shall apply only to such streams as are now navigable by steamboats or may hereafter be made so.

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Obstructing bridges to be removed or to have draw spans.

Civ. '02, § 1418.

Requirements as to draw spans.

Penalties.

To what streams applicable.

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CHAPTER XXX.

Bridges, Turnpikes and Ferries.

ARTICLE 1. *Bridges.*ARTICLE 2. *Turnpike Roads and Bridges.*ARTICLE 3. *Ferries and Bridges.*ARTICLE 4. *Miscellaneous Provisions.*

ARTICLE I.

BRIDGES.

Sec.

1929. Toll bridges must have rail-
ings.1930. Must be furnished with lights;
penalty.1931. How certain bridges to be
passed; penalty.1932. No fire to be carried on
bridge; penalty.

Sec.

1933. No building not
be erected with-
of bridge;
abatement, etc.1934. Vessels passing
to drop anchor
ty.Railing to be
put to bridges.Civ. '02, §
1416.

Section 1929. It shall be the duty of the owner of
toll bridges which have been or may hereafter be
by the Legislature to cause to be erected a good
cient railing, extending twenty feet from the edge
such toll bridges, on each side of the road, passing over
said toll bridge.

Grigsby v. Chappel, 5 Rich., 443.

Toll bridges
to be fur-
nished with
lights.Civ. '02, §
1417.

Sec. 1930. Every toll bridge within this State shall be
furnished at night by the owners of the franchise or
keepers of the said bridges, respectively, with sufficient
light or lights to enable persons traveling over the same
to see their way and to avoid danger.

If any person or persons traveling over any of the
bridges at night shall, in any way, be injured, in person or
property, for want of sufficient light, as herein required,
for, the owner or owners of said bridge, whether or not

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or a corporation, shall be liable to any person or persons so injured, as aforesaid, either in person or property, for all damages such person or persons may sustain, to be recovered in any Court of the State having competent jurisdiction.

Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor.

Sec. 1931. No person shall drive, lead, or, having charge of a horse or team, shall permit any carriage, animal, or other thing, to pass over or on any bridge more than ten feet long, now constructed or hereafter to be constructed by the authority of the Legislature, in a gait faster than a walk, nor shall any person having charge of any carriage, animal, or thing, use or permit it to stop on any such bridge. And every person so offending against this provision shall, on conviction thereof before any Magistrate of the County, pay a fine not exceeding ten dollars nor less than five dollars, and shall be further liable for all damages occasioned by such

How bridges
are to be
passed.

Civ. '02, §
1418.

NOTE.

Applies to bridges built by County under general law.—*Culbertson v. Abbe County*, 70 S. C., 457; 50 S. E., 83.

Sec. 1932. No person shall carry over, or otherwise have placed any fire on any wooden bridge, or bridge the superstructure whereof is of wood, now constructed, or hereafter to be constructed, by the authority of the Legislature; and every person so offending shall, on conviction before any Magistrate of the County pay a fine not exceeding ten dollars nor less than two dollars, and shall be liable for all damages occasioned thereby.

No fire to be
carried on
bridge.

Civ. '02,
1419.

Sec. 1933. No person shall erect, or cause to be erected, any building or other edifice not constructed of stone or brick, and not roofed with tile or slate, so as not to be fire-proof, within 50 feet of the wooden part of any bridge which is more than fifty feet long, constructed by authority of the Legislature; and if any person shall attempt such building or edifice, he may be enjoined from proceeding therein by the Court of Common Pleas or any Judge thereof; or if the same shall have been erected contrary to this Section, the said Court may order the same to be taken down and removed, and it shall be lawful for the proprietor or proprietors of the bridge, their officers or agents, to exe-

No building
to be erected
within 50 feet
of a bridge.

Civ. '02,
1420.

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cute such order under the direction of the Sheriff of the County, or his lawful deputy.

Vessels passing under bridges to drop anchor, etc.; penalty.

Civ. '02, § 1421.

Sec. 1934. All vessels, boats, and rafts passing under a bridge shall, before they come to the same, drop anchor, and drag through under the same; and if any vessel or raft, shall pass, or attempt to pass, under a bridge without dragging as aforesaid, every such vessel, boat, or raft, shall forfeit the sum of fifty dollars, to be recovered by immediate seizure and detention of the said vessel or raft, until the payment of the said sum, by installment being given of the same to the Circuit Court in the County where the offense was committed; the money, when recovered, to be applied for the rebuilding or keeping in repair of such bridge.

ARTICLE II.

TURNPIKE ROADS AND BRIDGES.

Sec.

1935. Where toll gates shall not be erected.

1936. How turnpikes shall be graduated.

1937. Wheels with broad tires to pay less toll.

Sec.

1938. How far apart toll gates shall be.

1939. Width of turnpike bridges.

1940. All traveling to pay toll of centre.

Where toll gates shall not be erected.

Civ. '02, § 1422.

How turnpikes shall be graduated.

Civ. '02, § 1423.

Wheels with broad tires to pay less toll.

Civ. '02, § 1424.

Section 1935. The proprietor or proprietors of any turnpike road shall not erect any toll gate across any public road now established by law, or which may hereafter be established by Act of the Legislature, and which is and shall be kept in repair by any means at the disposal of the Board of Commissioners, according to a general law of the State.

Sec. 1936. Every turnpike road shall be so graduated that no part of it shall rise above the horizon in an angle greater than three degrees, or a rise of one foot in ten feet of horizontal extension.

Sec. 1937. All carriages, the tires of whose wheels are more than four inches broad, shall be subject to a toll on the turnpike roads in this State, less by twenty-five per cent than the toll which carriages of the same description with narrower tires are subject to; and all carriages, the wheels of whose wheels are more than six inches broad, shall

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a toll on the said roads less by fifty per cent. than the which carriages of the same description having tires than four inches broad are subject to. The maximum is established by any law granting the charter of a like road, shall always have reference to carriages with less than four inches broad.

1938. For every twenty miles of turnpike road com- One toll gate every twenty miles.
l, one toll gate may be established, with the rates of toll ed by law. Or for every ten miles of turnpike road Clv. '02, § 1425.
leted, one toll gate may be established, with half the rates of toll.

1939. The bed of every turnpike road shall not be Width of turnpike roads and bridges.
than thirty nor more than forty feet wide, exclusive of Clv. '02, § 1426.
itches and grounds shaded with trees, except where the cut more than three feet deep in the solid earth, in r of which cases the bed of the road shall be not less twenty-four feet wide. Every bridge on a turnpike shall be as wide as the bed of the road, except where ridge shall be more than twelve feet long, in which case st be at least twenty-two feet wide, and shall have side gs at least three feet high, or parapet walls.

1940. Every person, carriage, animal, or other All traveling to be on the right of the centre.
g, traveling or passing on or over any turnpike road, Clv. '02, § 1427.
eway, or bridge, now constructed, or hereafter to be ructed, by authority of the Legislature, shall keep ely on the right of the centre of the said road, cause- or bridge, so as not to obstruct the passage of any r person, carriage, animal, or thing, on the other side e centre thereof.

ARTICLE III.

FERRIES AND BRIDGES.

1. How rechartered.	Sec.
2. Term of charters, etc.	1947. Keepers of ferries to keep banks in order.
3. Rates of toll.	1948. Aprons to be attached to ferry flats.
4. Charters to be reported to Secretary of State.	1949. Slips to be kept in repair by owners of ferries.
5. Form of charter.	1950. Toll's remitted in certain cases.
6. Schedule of trips at public steam ferries.	

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Sec.

1951. Private ferries to pass exempt *gratia*.

1952. Toll at bridges and ferries chartered December 1, 1845.

1953. Owners of bridges destroyed may establish temporary ferries: proviso.

Sec.

1954. Toll rates mutually posted.

1955. Persons ford toll.

1956. Distance between ascertained.

1957. Passengers at transported

Ferries have no legal or necessary connection with land, franchises granted to private persons for a limited time.—M 1 Strob., 514; 47 Am. Dec., 565. Rent reserved on lease extinguished by sale of land on one side to lessee.—Gourdi Bailey, 469. They cannot be established without permission of power.—Stork v. McGowan, 1 Nott & McC., 387.

Charters or renewals thereof of ferries, to be granted by County Board of Commissioners.

Civ. '02, § 1428.

Section 1941. When the charter of any ferry or is about to expire, the same may be renewed; and when a ferry is needed where no ferry heretofore chartered, the same may be chartered in the following manner: By application to the County Commissioners, instead of to the General Assembly, where the ferry is across a river at a point where is the boundary between two or more Counties, respective Board of Commissioners of the Counties concerned. The application shall be by petition, notice now required by law, and after strictly complying with all prerequisites required by law for granting of such charters.

How, to whom and how long granted.

Civ. '02, § 1429.

Sec. 1942. Such charter shall be to the applicant (or his or her heirs and assigns, for a term not exceeding twenty-one years, and shall be subject to revocation at any time by the County Board of Commissioners who granted or renewed the same, for such cause or causes as may seem just and proper.

Renewal of charter held to carry appendant right-of-way to Gulgnard v. Kinsler, 4 Rich., 330.

Rates of toll.

Civ. '02, § 1430.

Sec. 1943. The following shall be the maximum toll that shall be charged at each public ferry chartered under the provisions of this Article: for a passenger, five (5) cents. Except in the case of public ferries, where the maximum rate of ten (10) cents for a single trip or passage may be charged; for every sheep, goats, hogs and other small animals, five cents; for every horse, mule, and head of cattle, ten

for every passenger with single horse, mule, or ox or other riding animal, twenty (20) cents; for every single horse, buggy, cart or other vehicle, twenty-five (25) cents; for every two horse wagon or other vehicle, fifty (50) cents; for every three horse wagon or other vehicle, sixty-five (65) cents; for every four horse wagon or other vehicle, seventy-five (75) cents: *Provided*, That it shall be within the province and power of the County Board of Commissioners of the several Counties of the State to fix lower rates of toll for any one or more specific ferries in any County as the special local conditions and circumstances may demand; and in cases of ferries crossing rivers or streams forming boundary lines between any two Counties, the power and province aforesaid shall rest in the County Boards of Commissioners of said two Counties.

Sec. 1944. The County Boards of Commissioners of the various Counties of the State are hereby authorized and empowered to grant charters for ferries, and to establish ferries under the provisions of this Article and shall report all such charters to the Secretary of State immediately after they are granted.

Chart.
granted to
reported
Secretary
State.

Civ. '0
1481.

Sec. 1945. The following shall be a sufficient form for such charter: The State of South Carolina, County of, on the petition of, and it appearing that the public good will be observed thereby, the (or a) ferry across river at, known as (or to be known as) ferry, is hereby chartered (or rechartered), and vested in, the said petitioner, his (or her) heirs, executors, administrators or assigns, for the term of years, subject, however, to be revoked in the discretion of the County Board of Commissioners at any time. Given under our hands and seals of office, this the day of, A. D. 19....

Form of c
ter.

Civ. '0
1482.

Sec. 1946. Each and every public steam ferry in this State, heretofore or hereafter chartered, or now existing under and by authority of any general or special Act, shall operate daily and with only such intermission as is reasonable, commencing at 6 a. m. and ending not earlier than 9 p. m., each day. If any person or persons shall meet with unreasonable delay at any of the public steam ferries established by law in this State, every such person or persons

Schedule
trips at
lic steam
flea.

Civ. '0
1483.
Hours.

L. D. 1912.

Penalty for
delay.

may, by action in any Court of competent jurisdiction, recover from the proprietors or owners of such ferry a sum of ten (10) dollars for each and every hour of unreasonable delay.

Keepers of
ferries to
keep banks in
order.Civ. '02, §
484.

Sec. 1947. It shall be the duty of every person keeping a ferry to keep in good order the banks of the river on each side of such ferry. And in case of neglect, he shall be subject to a fine of three dollars for each and every day of such neglect, the same to be recovered before any Magistrate having competent jurisdiction.

Aprons to be
attached to
ferry flats.Civ. '02, §
486.

Sec. 1948. Each and every ferry owner or keeper shall provide and keep attached to each end of each ferry flat or flats a good and sufficient apron, or, in the absence of such aprons, shall keep, at each and every landing place, a good and sufficient abutment or inclined plane for the landing and for default or neglect in so doing he shall be liable to a sum not exceeding ten dollars for every three days continuance of such default, to be recovered in any Court having competent jurisdiction of the same; one-half thereof to go to the use of the State, and the other half to the informant.

Miles v. James, 1 McC., 157.

Slips to be
kept in repair
by owners of
ferries.Civ. '02, §
486.

Sec. 1949. All persons who may have charters or contracts for the use of a ferry, where it is necessary that slips should be used, shall keep the same in repair at their private expense.

Persons are forbidden to transport passengers within a mile of a licensed ferry, except in case of detention for a half hour at such place. Criminal Code.

Generally, as to liabilities of ferrymen, common carriers.—Clark v. Island Ferry Co., Riley, 300; Rutherford v. McGowan, 1 N. & McC., 19; even where property is under charter to a private owner; Miles v. James, 1 McC., 157; Cohen v. Hume, 1 McC., 439; private ferry; Littlejohn v. Jones, 2 McM., 365; 39 Am. Dec., 12; rights of.—McGowan v. Stark, 1 N. & McC., 387; *Id.*, 397; Fraser v. McGowan, 2 N. & McC., 471; Puckett v. Smith, 5 Strob., 26.

Tolls remit-
ted in certain
cases.Civ. '02, §
487.

Sec. 1950. It shall not be lawful to exact from the citizens of this State, nor shall any of them be compelled to pay, any toll for crossing any ferry within the limits of this State, or for the crossing of their horses, cattle, or other property, at any such ferry, when the boat or boats, or flats, kept at said ferry, is or are not used by them for such purpose.

Sec. 1951. The keepers of all private ferries, usually kept open for passing over passengers for hire, shall be obliged to pa-

A. D. 1912.

of charge or expense, all such persons as are by law exempted from the payment of ferriage at ferries established and allowed by Act of the Legislature.

Private ferries to pass exempts gratis.

Sec. 1952. At all ferries and bridges, chartered since the day of December, 1845, the same and no higher toll

Civ. '02, § 1438.

shall be demanded, paid, or allowed on any wagon, buggy, chaise, or other carriage, drawn by a single horse, mule, or other animal, than is allowed, paid, or demandable for

Toll at bridges and ferries chartered since December 1, 1845.

carriages, gigs, or sulkies, any law, custom, or usage to the contrary notwithstanding.

Civ. '02, § 1439.

Sec. 1953. Where any bridge has been, or shall hereafter be erected over any river in this State, and the same has been, or shall hereafter be, destroyed or injured by freshets or otherwise, so as to be impassable, the company or indi-

Owners of bridges destroyed may establish temporary ferries; proviso.

vidual owning such bridge is authorized to establish a ferry

Civ. '02, § 1440.

at some convenient place within one mile of the site of the destroyed bridge, and to keep the same and receive the emolu-

ments thereof, not exceeding in amount of ferriage the established tolls receivable at said bridge during the time

said bridge shall be rebuilding and repairing: *Provided*,

that the rebuilding or repairing of the said bridge shall be begun within six months, and shall be finished within two

years, from the time the said bridge shall be destroyed or injured; and, during the time aforesaid, all other persons

shall be excluded from establishing any ferry within three miles of the site of the said bridge, excepting from the

operation of this provision any ferry before that time established by law, and, at the time of the destruction or injury

of the said bridge, regularly kept and used: *Provided, also*,

that the company or individual, as the case may be, shall pay all damages which may be sustained by any person, conse-

quent upon the establishment of such ferry, to be assessed in the same manner as is established for the settlement of

damages done to individuals by turnpike roads passing through their lands.

Sec. 1954. It shall be the duty of the managers and proprietors of all public ferries and bridges, having the

Tolls to be conspicuously posted.

privilege by law to charge toll for the passage of persons, animals, and vehicles or other goods, to cause the rate

Civ. '02, § 1441.

chargeable for such passage to be posted in legible letters and characters in some conspicuous place, stating the legal

A. D. 1912.

amount to be paid, so as to be read for information and inconvenience, at the approach to such ferry or bridge.

Evidence to show violation, sufficiency.—*Frazier v. Drayton*, 471. Party accustomed to use ferry presumed to know the rate charged.—*Addison v. Hard*, 1 Bailey, 481.

Persons fording not to pay toll.

Civ. '02, § 1442.

Sec. 1955. If the water at any bridge or ferry be so low as to enable persons with their horses or teams to ford the same, the proprietors of the ferry or bridge shall not be allowed to take any toll from the person so fording the same. And no old accustomed ferries or roads leading to or from such fords, within this State, shall be obstructed; and the Superintendents of highways in their respective highway districts, are required to keep such roads leading to or from such old accustomed fords open and in good repair: *Provided*, Nothing herein contained shall infringe, or be construed to infringe, the charter of any companies to promote the inland navigation of this State.

See Criminal Code for penalties on ferrymen for illegally exacting tolls and obstructing fords, etc.

Distance between ferries, how ascertained.

Civ. '02, § 1443.

Sec. 1956. In all disputed cases whatsoever under any Act for the establishment of ferries and bridges in this State, the disfranchising space, whether by water or by land, shall be admeasured, either by the water or by the approachable road, and in no case by a straight line, except where a travelable and practicable road exists in such straight line, or might be as easily made at as little expense and inconvenience to the public as the other cause.

Remedy for violation of ferry franchise.—*Stark v. McGowan*, 387; *Gibbes v. Beaufort*, 20 S. C., 213. Measure of damages.—*Smith v. Smith*, 5 Strob., 26; 53 Am. Dec., 686.

Passengers at ferries to be transported immediately.

1904, XXIV, 443.

Sec. 1957. All managers and keepers of public ferries shall afford applicants immediate passage across the same at all hours, day and night, at the usual fees and

A. D. 1912.

ARTICLE IV.

MISCELLANEOUS PROVISIONS.

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|---|---|
| <p>8. Commissioners to be appointed to superintend works.</p> <p>9. Work to be examined by them; duty, if work is in a dangerous condition.</p> <p>10. Oath of Commissioners.</p> | <p>Sac.</p> <p>1961. Tolls to be paid before passing gate.</p> <p>1962. Warrant may be issued to collect tolls.</p> <p>1963. Persons exempt from toll.</p> <p>1964. Rate of toll.</p> <p>1965. Penalty for delaying passengers.</p> |
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Section 1958. The proprietor or proprietors of each and every bridge, ferry, or turnpike road, and the County Board of Commissioners of the County to which the work is subject, shall appoint, immediately after the completion of the work, and before any toll or ferriage is received thereat, at the expiration of every three years thereafter, three persons, who shall be commissioners of the said work; and where the above named parties do not agree, or whenever the Legislature shall, by Resolution or Act, order a new commission, the Commissioners shall be appointed by the Court of Common Pleas of the County in which the whole or any part of the said work may be situated; but, before such appointment shall be made, the Attorney-General or Solicitor of the Court shall have notice of the day on which application for such appointments will be made. And in case the proprietor or proprietors shall not apply for the appointment of Commissioners on or before the second day of the next term after such application to the Court shall become necessary, the Attorney-General or Solicitor of the Court shall make application to the Court for such appointment, which may be made without notice to the proprietor or proprietors.

Sec. 1959. The Commissioners of each and every bridge, ferry, and turnpike road, shall have full power, in addition to the authority hereinbefore given them, and they, or a majority of them, are hereby required, to examine the works for which they may be appointed; and in case they shall find the said work, or any part thereof, out of repair, or not in good order for traveling or passing, or in any way difficult or dangerous to be traveled or passed, it shall be the duty of the said Commissioners, or a majority of them, to

Commissioners to be appointed to superintend works.

Civ. '02, § 1444.

Work to be examined by them; duty if work is in a dangerous condition.

Civ. '02, § 1445.

A. D. 1912.

make and publish in the nearest gazette, and to post at all places where tolls or ferries are received, an order that the proprietor or proprietors shall not receive any toll for traveling over or passing the said bridge, ferry, or turnpike road, as the case may be; and after the said order is made and posted up, as aforesaid, (whether published in the said gazette or not), and until the said order is repealed, each and every toll gate of the said work shall be kept open, and it shall not be lawful for the proprietor or proprietors thereof to receive any toll or ferry for traveling or passing over the said work, or any part thereof, and the proprietor or proprietors, keeper or keepers of the said ferry, during the continuance of such order respectively shall give the same attendance thereon, and convey persons, horses, cattle, and carriages over the same, as if such order had been made. Whenever any member of the said Commission may know, of his own observation, or be informed by the affidavit of any other person, that any Magistrate, or any member of the said Commission, has taken any oath, (who, for the purpose, are hereby authorized to swear by their oaths,) that the said works, or any part thereof, are in need of repair, or difficult or dangerous, as aforesaid, he shall summon the other members to attend on the work concerned, and thereupon the said Commissioners shall consider and reject the said order, as the nature of the case may require, and it shall also be the duty of the said Commissioners on the written summons of the proprietor or proprietors to attend and repeal said order, whenever the cause for the same may have been removed. Whenever the said Commissioners may refuse to make or repeal such order, if they ought so to do, they may be compelled to do so by *mandamus*.

Oath to be
taken by
them.

Civ. '02, §
1446.

Sec. 1960. Each Commissioner of each and every bridge, ferry, and turnpike road, before entering on the duties of his office, shall take and subscribe an oath or affirmation to the following effect: "I, A B, one of the Commissioners of the bridge, (ferry, or turnpike road, as the case may be) do solemnly swear (or affirm) that I will, to the best of my judgment and ability, faithfully and impartially perform the duties required of me by law, as Commissioner of the said." said."

A. D. 1912.

Sec. 1961. The tolls demandable and payable at the toll gate of any bridge, ferry, or turnpike road, now constructed, hereafter to be constructed, by authority of the Legislature, shall be paid, if required, before passing the gate. The collector at a gate or ferry shall make change of all bills or bills offered him in payment of tolls, under the value of five dollars, except six and a quarter and five cent bills or coins, which shall always be paid to the collector where a less sum is due to him for tolls, unless the exact change shall be tendered him in the copper coin of the United States.

Tolls to be paid before passing gate.

Civ. '02, § 1447.

Sec. 1962. In case the toll is not paid before passing the gate of any turnpike road, bridge, or ferry, and shall be refused or neglected to be paid immediately after, the collector may issue his distress warrant for the same, and cause it to be levied on the carriage, horse, animal, or other thing, which has incurred the demand for toll, or any article of property conveyed in such carriage, or on such horse, animal, or thing, and the thing so distrained shall be disposed of in the same manner as goods under execution.

Warrant may be issued to collect tolls.

Civ. '02, § 1448.

Sec. 1963. Exemption from the payment of toll at any bridge, ferry, and turnpike road, hereafter chartered, shall be granted to every regularly ordained or licensed minister of the gospel; to every member of the Legislature, going to or from its sittings; school trustees, when they are traveling on official business; and all persons going to and returning from divine service on Sundays; and to every person traveling in the performance of any civil or military duty, for which he receives no salary or reward; and to every person whose duty it may be made by law to examine the said work, with not more than one servant, a carriage and two horses. Armies, in time of war or insurrection, troops, with their baggage, artillery, and munitions of war, exclusively in the service of the State, shall pass every bridge, ferry, and turnpike road, at one-half of the established toll or ferriage.

Persons exempt from toll.

Civ. '02, § 1449.

Sec. 1964. The rate of tolls receivable at any bridge, ferry, or turnpike gate, shall be as follows, unless otherwise expressed in the Act granting or authorizing the charter: For every carriage with four wheels, for the conveyance of persons (except stage coaches running regularly on the road,) drawn by four

Rate of toll; foot passengers exempt.

Civ. '02, § 1450.

A. D. 1912.

horses or mules...
 Drawn by three horses or mules...
 Drawn by two horses or mules...
 For every carriage with four wheels, drawn by
 horses, oxen or mules...
 Drawn by five horses, oxen, or mules...
 Drawn by four horses, oxen, or mules...
 Drawn by three horses, oxen, or mules...
 For every carriage with two wheels, for the conveyance of persons, drawn by two horses or mules...
 For every carriage other than for the conveyance of persons, drawn by four horses or mules...
 Drawn by three horses or mules...
 For every other carriage...
 For every person on horseback, or leading or driving a horse or mule...
 For every led horse or mule, accompanying a person on horseback...
 For every horse or mule in drove...
 For every head of cattle...
 For every hog, sheep, or goat...
 For every animal for show, in addition to the carriage in which it may be conveyed...
 For every foot passenger crossing a bridge...
 But no foot passenger shall be liable to pay tolling a turnpike gate.

Penalty for
 delaying pas-
 sengers.

Civ. '02, §
 1451.

Sec. 1965. If any person or persons shall cause unnecessary delay at any of the public ferries, toll bridges, or causeways established by law, every such persons may recover from the persons keeping such bridge, or causeway, for every hour of such unnecessary delay, the sum of ten dollars, to be recovered, on a writ of mandamus, from the party aggrieved, by action before any Justice of the Peace or Magistrate.

A. D. 1912.

CHAPTER XXXI

The Saluda Mountain Road.

<p>Sec. 1966. Interest of State vested in Greenville County.</p> <p>Sec. 1967. Declared a public highway; under charge of County Board of Commissioners.</p>	<p>Sec.</p> <p>1968. Regulations as to traveling on.</p> <p>1969. Order of traveling prescribed; exceptions.</p>	
<p>Section 1966. All the right, title and interest of the State South Carolina in and to the State road known as the Saluda Mountain Road, running from Greenville County, said State, across the Saluda Mountain, to Henderson County, in North Carolina, is hereby assigned, transferred and set over to Greenville County.</p>	<p>Interests of State vested in County of Greenville.</p> <p>Civ. '02, § 1452.</p>	<p>Sec. 1967. Said State road known as the Saluda Mountain Road is hereby declared a public highway, and the County Board of Commissioners of Greenville County are hereby authorized and required to maintain the same.</p>
<p>Sec. 1968. On the said road, road wagons drawn by four or more horses, mules or oxen shall be required to keep on the timbered ways, where the road is timbered, unless it shall be necessary for them to leave these ways for the purpose of passing other vehicles or avoiding broken places.</p>	<p>Declared a public highway; under charge of the County Board of Commissioners.</p> <p>Civ. '02, § 1453.</p> <p>Regulations as to traveling on.</p> <p>Civ. '02, § 1454.</p>	<p>Sec. 1969. In traveling on every part of the said road, the following order shall be preserved, to wit: All carriages and burthen, or for any other use, shall keep on the right side of the centre of the road, so as not to interfere with carriages traveling on the other side, except in the following cases, to wit: Where the centre of the road is timbered less than fourteen feet wide, the following order shall be observed, to wit: The centre or timbered part of the road may be kept—</p>
<p>1. By loaded wagons traveling toward the mountains, including all others therefrom.</p> <p>2. All descending loaded wagons and carriages may keep the side of the road next to the mountain and farthest from the valley.</p>	<p>Order of traveling prescribed; exceptions.</p> <p>Civ. '02, § 1455.</p>	

A. D. 1812.

c. 1871. Every person who shall keep water during winter upon grounds on which rice shall be planted the following spring, shall, on the tenth day of March in each year, open the dams which keep up the water in a sufficient manner for letting off the same; and if any person or person shall neglect so to do on or before the time aforesaid, he or she shall forfeit and pay the sum of five hundred dollars for every such neglect, to be recovered upon the complaint of any person or persons through whose lands such water may pass, and it shall and may be lawful for such person to sue for the same, in any Court of competent jurisdiction in the County where such offence is committed, and one-half thereof shall be paid to the informer, and the other half to the use of the poor of such County.

Dams to be opened by 10th March: penalty.

Civ. '02, § 1457.

c. 1872. Where any person has neglected to open his water dams in a sufficient manner for letting the water off the grounds before described, on or before the tenth day of March in every year, in manner aforesaid, it shall and may be lawful for any person who may be affected thereby, at any time after the day aforesaid in every year, either himself, or herself, or his or her overseer, agent, attorney, trustee, to apply to any Magistrate in the County for a warrant of survey, who shall thereupon notify the defendant of the complaint made against him, with the time and place of meeting, and summon three freeholders, disinterested persons, of the neighborhood where the cause of complaint shall lie, one of whom shall be chosen by the defendant, and in case of his refusal, then by the Magistrate, another by the complainant, and the third by the Magistrate, who being first sworn before such Magistrate to determine the matter in dispute justly and impartially) shall forthwith proceed to view the obstructions complained of, and if, upon view thereof, the said freeholders, or a majority of them, shall be of opinion that such obstructions do or may prevent the party complaining from planting his or her crop of rice in proper time, then and in such case it shall and may be lawful for the said freeholders, or a majority of them, to cause the same to be immediately opened or removed in any way or manner they shall think necessary for the purpose of giving the most effectual relief to the party complaining, whereupon the defendant shall be

Mode of obtaining redress if the dams are not opened at the proper time; proviso.

Civ. '02, § 1458.

A. D. 1812.

obliged to pay all expenses attending such survey, *provided, always,* That nothing herein contained shall be construed to extend, to impose any penalty on any person or persons, or to cause his or her dams to be opened, who shall have made through his or her lands a sufficient drain or drains (of which the freeholders shall be the judges) to carry off the water through the same in as expeditious a manner as has been passed through the natural course or channels, if no such banks had been erected.

Redress for
obstructing
surplus water
on the rice
ground.

Civ. '02, §
1469.

Sec. 1973. It shall and may be lawful for any person at any time between the tenth day of March and the first of November in every year, to apply in manner to the Magistrate for a warrant of survey on any obstructions which he or she may conceive do impede the conveying off of water on his or her rice grounds, and which, by the nature thereof, may prove any way injurious, or shall at any time hereafter, make or keep up any dam or dike, or shall stop the course of any water so as to obstruct the lands of any other person or persons whatever, without the consent of such person or persons first had and obtained, and which shall be injurious to the said person or persons; then, in either of such cases, the said Magistrate, with two freeholders by him appointed shall proceed in the manner as is directed in the foregoing Section, *always,* That if, in either of the cases last mentioned, the defendant shall neglect or refuse to attend at the survey, or if the defendant had been present and had chosen a freeholder, who shall have been summoned by a writ, the Magistrate shall proceed to determine the matter in dispute in the manner as if the defendant had been present and had chosen a freeholder, which said freeholders shall, in either of such cases, certify to the said Magistrate, under their oaths, what shall have been by them done in the premises, and the expenses attending which survey shall be paid by the defendant, or against whom the award of the said freeholders shall be given.

Sec. 1974. If any person, either by himself or by his or her overseer, agent, trustee, or attorney, or by any other person or persons acting for him or her, shall presume to stop up any dam or dams, or to

structions, in any manner whatsoever, which has or have been ordered, to be opened or removed by any freeholders as aforesaid, or which has or have been opened or removed by himself or herself, or his or her overseer, agent, attorney, trustee, or by order of either of them, on the said tenth day of March, until the tenth of July, every person so offending shall forfeit and pay the sum of one thousand dollars, to be recovered and disposed of in manner as aforesaid; and if any person shall presume to obstruct, impede, or otherwise hinder or interrupt the opening of any dam or dams, or the removing of any obstructions ordered to be opened or removed by the freeholders as aforesaid, every person so offending shall forfeit and pay for every such offence the sum of two thousand five hundred dollars, to be recovered and disposed of in manner aforesaid.

Sec. 1875. Where any dam or dams have been made, or shall hereafter be made, for the purpose of forming reservoirs of water, without a sufficient wasteway, and which are, or shall hereafter be found, inadequate to sustain the weight of water against the same, the owner of such dam or dams shall immediately, or as soon as may be, cause the same to be enlarged and strengthened, where they are already made and are insufficient, and such as may hereafter be made, to be erected in a substantial manner, with a sufficient wasteway; and if any person shall neglect to strengthen his or her dam or dams already erected for the purposes aforesaid, where necessary, or shall hereafter neglect any dam or dams for the purpose aforesaid, and which, in either case) in the opinion of three freeholders, or a majority of them, (to be appointed and proceed in manner hereinbefore mentioned respecting surveys of dams across private grounds,) is or are not made and regulated in manner hereby prescribed, every person so offending shall, on complaint of any person or persons liable to be affected thereby, and on conviction thereof in any Court of record in the county where such offence is committed, forfeit and pay the sum of five hundred dollars for every such offence, which may be sued for, and, if recovered, be disposed of in manner aforesaid: *Provided always, nevertheless, That nothing herein contained shall extend, or be construed to extend, to subject any persons who have made or shall make any*

A. D. 1812.

Penalty on persons replacing obstructions and opposing the opening of dams.

Civ. '02, § 1480.

Inadequate dams to be strengthened; dams to have waste ways; penalty for neglect or omission; proviso.

Civ. '02, § 1481.

A. D. 1912.

banks or dams to reserve water, to pay any damages may be sustained by the breaking of the said bank when it is occasioned by such violent rains and would have caused such damages to be sustained on lands in question, though no such bank or dam had been made, whereof the freeholders aforesaid shall be liable for anything herein to the contrary notwithstanding.

Residents only to be summoned to survey rice lands; compensation; penalty for non-attendance.

Civ. '02, § 1462.

Sec. 1976. Every person to be summoned as a resident shall be a resident in the County and neighborhood in which his attendance shall be required, and upon being summoned, and attending any survey as aforesaid, shall be entitled to receive the sum of one dollar and fifty cents per day each, and five cents mileage going to and from the place of meeting, for every such attendance, to be paid by the person against whom the verdict of the freeholders shall be given; and in case of the non-attendance of any person, a resident, and summoned as aforesaid (unless prevented by sickness, or some reasonable excuse), a verdict may be made, upon oath, to the satisfaction of such Magistrate, that he then, and in such case, every such person so neglected, shall attend when summoned as aforesaid, and without sufficient excuse as aforesaid, shall forfeit and pay to the person against whom the verdict shall be given, the sum of fifty dollars per day for every such neglect or refusal to attend.

Penalty on Magistrate for neglect of duty in relation to dams and drains.

Civ. '02, § 1463.

Sec. 1977. In case any Magistrate shall neglect or refuse to put the provisions of this Chapter in execution, he shall forfeit the sum of twenty dollars, which penalty may be sued for and recovered by action in any court of record in this State, and shall be applied one-half to the State, to be disposed of by the General Assembly, and the other half to him or them who will inform and prosecute for the same.

Persons not to keep water on other's lands.

Civ. '02, § 1464.

Sec. 1978. Nothing contained herein shall be construed to authorize any person or persons to keep water on any lands other than his, her, or their own.

A. D. 1812.

ARTICLE II.

DRAINAGE IN CERTAIN COUNTIES.

	Sec.
Jurisdiction of County Boards of Commissioners.	1994. Drain across railroad bed.
Duty of land owners to clean out streams.	1995. Guardians and committees to be regarded as the owners of lands.
Duty in Darlington County.	1996. Notices; how served on non-resident.
Duty where stream is boundary line.	1997. Vacancy on Board; how filled.
Duty of Board where owner fails to clean stream.	1998. Statement of expenditures to be kept.
When Board may cause same to be cleaned, and how.	1999. How costs are to be paid.
Cleansing streams in Darlington County.	2000. Power of Board to borrow money.
Board may condemn right-of-way for drainage.	2001. How assessments are to be collected.
Estimate to be made of costs; notice to land owners.	2002. Assessments not to be stayed by injunction.
Assessment to be a lien on land.	2003. When stream is boundary between Counties.
Board to preserve all records.	2004. Per diem of Commissioners in Darlington County.
Powers of Board in Darlington County.	2005. Certain Counties excepted from provisions of Sections 1465-1486 inclusive.
Consolidation of separate proceedings.	2006. County Board of Commissioners to act as Commissioners of Health and Drainage in certain Counties; powers and duties.
General power of Board in cleaning streams.	
Power to make additional assessments.	

Special drainage laws unconstitutional.—State v. Hammond, 66 S. C., 360; E., 932.

Section 1979. In addition to the jurisdiction and duties imposed upon them by law, the County Boards of Commissioners of the several Counties in this State shall Commissioners of Health and Drainage, and shall have jurisdiction over the streams and the swamps and bottoms in their respective Counties. They shall have power and authority, and it shall be their duty to see that the provisions of this Article are enforced and obeyed, and, for that purpose, they may employ such assistance as may be necessary, and pay for same by warrants on the County treasurer, which shall be paid out of any funds in his hands for ordinary County purposes.

Sec. 1980. It shall be the duty of all land-owners to clean out all streams upon and adjacent to their lands at least twice in each year, at such particular times as said boards may appoint, and according to the directions of said

Jurisdiction of County Boards of Commissioners in draining swamps, etc.

Civ. '02, § 1465.

Duty of land owners to clean out their streams.

Civ. '02, § 1466.

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Boards, and to keep the same clear of all obstructions, to insure a free and uninterrupted flow of sand and water through the channels thereof: *Provided*, That this Section shall be construed to prevent the erection and maintenance of a dam across any of said streams for any useful purpose. *Provided, further*, That said Boards shall have authority to require the owner of any such dam to open and maintain therein suitable and sufficient floodgates or waterways to afford free passage through the same of sand and water, so that the streams above may be kept cleaned out and the lands adjacent thereto properly drained, for which purpose they may require the owner of such dam to open the floodgates or waterways therein, and to keep them open for such reasonable time as they may deem necessary.

See Criminal Code for penalty for violation of this Section.

Cleaning
streams, etc.,
to be done by
landowner.

Dams.

Sec. 1981. In Darlington County the cleaning out of streams, waterways, canals and ditches, and the draining of all swamps, bottoms or agricultural lands, and the opening of all swamps, bottoms or agricultural lands to be for the public good, and the drainage thereof under is declared to be a public purpose. It shall be the duty of all landowners to clean out all streams, waterways, canals and ditches, and the drainage thereof adjacent to their lands at such particular time as the Board may appoint, and according to the directions of the Board, and to keep the same clear of all obstructions, to insure a free and uninterrupted flow of sand and water through the channels thereof: *Provided*, That this Act shall be construed to prevent the erection and maintenance of a dam across any of said streams for any useful purpose. *Provided, further*, That said Board shall have authority to require the owner of any such dam to open and maintain therein suitable and sufficient floodgates or waterways to afford free passage through the same of sand and water, so that the streams above may be kept cleaned out and the lands adjacent thereto properly drained, for which purpose they may require the owner of such dam to open the floodgates or waterways therein, and to keep them open for such reasonable time as they may deem necessary.

Sec. 1982. In case any stream shall constitute the boundary between adjacent owners, who do not agree amongst themselves what portion thereof each shall be required to clean out, said Board shall, after hearing the owners interested, apportion the same amongst them, and assign to each a specific part thereof, and after such assignment the part assigned to each owner shall, for the purpose of this article, be deemed and held to be upon his land, and he shall be required to clean out the part so assigned to him until another apportionment shall be made, which may be made as often as said Board shall think proper.

See Criminal Code for punishment for obstructing streams.

Sec. 1983. When any land-owner shall fail or refuse, after ten days' notice, to clean out the streams upon his land as herein provided, said Board may cause the same to be cleaned out, and the expense thereof shall be a lien upon the land of such owner, prior and preferred to all other liens, except the lien for State and County taxes, to be recovered by suit in the name of said Board in any court of competent jurisdiction.

Sec. 1984. Wherever it shall appear to the satisfaction of said Board that it will be impracticable for the individual owners to properly clean out, widen, deepen and straighten the channel of any stream running through or adjacent to their lands, or to do such work thereon and in connection therewith as may be necessary to properly drain the adjacent swamps or bottom lands, and that the condition of said stream and such adjacent lands is, or is likely to become, such that the public health is, or will probably be, endangered thereby, they may, in their discretion, take charge of said stream, and cause the same to be cleaned out and the adjacent lands to be drained as hereinafter provided. They may change the width, depth and grade of the channel, and cause the same to be re-located. Before any action shall be taken, a petition, stating the foregoing facts, must be filed with said Board, signed by the owners of a majority of the number of acres of swamp or bottom lands on said stream for a distance not less than five miles up and down the same, praying that said Board take charge of said stream, and have the lands thereon drained under the provisions of this Article.

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Duty of owners when the stream boundary line

Civ. '02, 1467.

Duty of Board when land owner fails to clean stream.

Civ. '02, 1468.

When it is impracticable for owner to clean stream, Board may cause same to be done; when and how.

Civ. '02, 1469.

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If the stream be less than five miles long, the petition shall be signed by the owners of a majority of the number of acres of swamp or bottom lands on said stream. The petition shall state the following facts as nearly as can be ascertained by reasonable diligence and investigation: The point on said stream at which it is proposed to begin and end the drainage: *Provided*, That said Board may extend the drainage at their discretion, also the number of acres of swamp or bottoms thereon, between the points specified, owned by each petitioner, and also the number of acres in the tract of each, with a general description of the whole tract; also the names and the number of acres of swamp or bottoms on said stream between the points owned by others than the petitioners, and the whole number of acres in each separate tract, with a description of the whole tract. The petition shall be sworn to by the oath of one of the petitioners, and also by a practicing physician of said County. In all proceedings under this Article, the Secretary of State shall represent the State, when the State is interested. Upon the presentation of such petition, the Board may make such further investigation and investigation as they may see fit, including an estimate of the expenses of the work necessary to be done; for that purpose they may employ such assistance, including the services of surveyors, as they may deem necessary for the purpose of making such investigation and estimate. The said Board, and all assistants appointed by them in their order, may enter upon any lands on said stream and make such investigation and surveys. If, after such investigation, they decide that the allegations of the petition are probably true, they shall cause a notice to be served upon the owners of the several tracts on said stream, at such distance as they shall determine, who have not signed the petition, requiring them to show cause, if any there be, at a time and place to be fixed in such notice, why the prayer of the petition should not be granted. Such notice shall be served not less than ten days before the day of the hearing. If, upon such hearing, the Board shall refuse the prayer of the petition, they shall pass a resolution to that effect, and the petitioners shall be liable for all the costs and expenses incurred by said

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if they shall decide to grant the prayer of the petition, they shall pass a resolution or order to that effect.

Sec. 1985. In Darlington County. Whenever it shall appear to the satisfaction of said Board that it will be practicable for the individual owners to properly clean, widen, deepen and straighten the channel of any stream, waterway canal or ditch running through or adjacent to their lands, or to do such work thereon and in connection therewith as may be necessary to properly drain the adjacent swamps or bottom lands or other lands needing drainage, and that the condition of said stream, waterway, canal or ditch and such adjacent lands is, or is likely to become, such that the public health is, or will probably be, endangered thereby, or it appears that it is to the public interest for agricultural purposes or otherwise that any lands within the County need draining, they may, in their discretion, take charge of said stream, waterway, canal, ditch and lands, and cause the same to be cleaned out and the adjacent lands to be drained as hereinafter provided. They may change the width, depth and grade of the channel, waterway, canal or ditch, and cause the same to be located. Before any action shall be taken, a petition, stating the foregoing facts, must be filed with said Board, signed by the owners of a majority of the number of acres of swamp or bottom or other lands to be drained, praying that said Board take charge of said stream, waterway, canal or ditch, and have the lands thereon drained under the provisions of this Act: *Provided*, That it must be shown that at least one thousand acres of land are affected by said drainage. The petition shall state the following facts as nearly as they can be ascertained by reasonable diligence and inquiry: The points on said stream or other lands at which it is proposed to begin and end the drainage, also the number of acres of swamp, bottom or other lands thereon, between the points specified, owned by each petitioner, and also the whole number of acres in the tract of each, with a general description of the whole tract; also the names and the number of acres of swamp or bottom or other lands on said stream, waterway, canal or ditch between said points owned by others than the petitioners, and also the whole number of acres in each separate tract,

Board may cause cleaning, etc., to be done in Darlington County.

Petition.

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with a general description of the whole tract: That said Board may extend the drainage at the petition. The petition shall be verified by the oath of the petitioners, and if the petition shows that said is undertaken on account of the public health, said must be verified by a regular practicing physician of the County. In all proceedings under this Act, the Attorney General of State shall represent the State, when the State is interested. Upon the filing of such petition the Board shall make such further inquiry and investigation as they may deem fit, including an estimate of the expenses of the work necessary to be done; for which purpose they may employ the assistance, including the services of surveyors, as they may deem necessary. For the purpose of making such investigation and estimates, the said Board, and all persons appointed by them, or by their order, may enter upon and survey lands on said streams, waterways, canals or ditches, and make such investigation and surveys. If, after such investigation, they decide that the allegations of the petition are probably true, they shall cause a notice to be served upon the owners of the several tracts on said streams, waterways, canals or ditches within such distance as they shall determine, who have not signed the petition, to show cause, if any they can, at a time and place to be fixed in such notice, why the prayer of the petition should not be granted. Such notice shall be served at least ten days before the day fixed for the hearing. If, upon such hearing, the Board decide to grant the prayer of the petition, they shall pass an order to that effect, and the petitioners shall be liable for all the costs and expenses incurred by said Board. If they shall decide to grant the prayer of the petition, they shall pass a resolution or order to that effect.

Power of Board to condemn "rights of way" for drainage.

Civ. '02, § 1470.

Sec. 1986. Said Board shall have power and authority to condemn the necessary "rights of way" for the drainage of any such streams, swamps and bottoms, and the right of way for such purpose over any lands within the State is hereby granted. In case of the refusal of any land owner to grant such right of way for such purpose, or in case an agreement as to compensation and damages therefor cannot be made, and the

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y thus obtained, said Board shall assess the compensation and damages therefor, after five days' notice of the time and place of such assessment, which assessment may be reviewed by a jury drawn and summoned as hereafter provided for the review of the per cent. of assessment for drainage, and the finding and verdict of such jury shall be final: *Provided*, That said Board may, when found practicable, make their assessments for compensation and damages for rights of way, and for the per cent. of assessments for drainage at the same time. When the amount of compensation and damages for right of way shall have been fixed and determined, if the same exceed the amount of the per cent. of assessment for drainage against the land of such owner, the Board shall draw their warrant on the County Treasurer for such excess, and the same shall be paid by him out of any funds applicable to ordinary County purposes, and charged to such drain fund. And when the amount for compensation and damages for right of way shall be fixed prior to any assessment for drainage on the same land, it shall be paid and charged in the same way, but said land shall be subject to the assessment for drainage thereafter.

Sec. 1987. Before proceeding with the work of drainage, the said Board shall make, or cause to be made, an estimate of the cost and expenses, including therein all moneys and expenses paid out or incurred in reference hereto or in preparation therefor; and they shall add to the total gross sum ten per cent. thereof for contingencies; and they shall apportion the per cent. thereof to be paid by the County, and the per cent. thereof to be assessed against and paid on account of and for each tract of land in their opinion involved, and the number of equal annual instalments, not exceeding five, in which the same shall be collected. Such apportionment and assessment and decision as to the number of instalments shall be subject to review and correction, in the manner herein provided. The owner or owners of any tract or tracts so assessed who may feel aggrieved, may, within five days after notice of the assessment, which notice shall contain the total estimated costs and expenses and the per cent. thereof assessed upon his tract, and the number of annual instalments in which the

Estimate
cost to be for
made.

Civ. '02,
1471.

Assessment
to be made
and notice
given to land
owners affected.

Right of review.

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same is to be collected, demand a review thereof. *Provided*, Such owner shall file with the Board with surety to be approved by the Board, and pay all the costs and expenses of such review, if the decision made by the Board be sustained, or such proportion of the costs and expenses as the jury may impose upon him. Upon the filing of such demand and bond, the Board shall select a jury of six disinterested freeholders to be empanelled, as follows: The County Auditor, Treasurer and the Clerk of the Circuit Court shall, at the request of said Board, prepare a list of eighteen qualified freeholders, qualified under the laws of the State to serve as jurors, and furnish the same to said Board. The Board and the contesting land owner jointly shall separately select from said list, until six jurors and six supernumeraries shall have been drawn. If such land owner fail or refuse to participate in such drawing, the Board shall draw all the jurors and supernumeraries. The Sheriff or any Constable shall, at the request of the Board, summon said jurors and supernumeraries to attend. If any juror drawn shall not be summoned or attend, a supernumerary drawn by the side which drew such juror shall be summoned in his place, at such time and place as the Board may appoint. The Board shall have power and authority to compel their attendance, the same as Magistrates have in matters before them. The jury, when empanelled, shall be duly sworn by one of the Board to fairly and impartially decide the issues submitted to them. Jurors and supernumeraries who attend or serve shall each receive one dollar per day, and the Sheriff or Constable shall be paid one dollar for serving each venire, and five cents per mile for each mile of necessary travel, the same to be paid as hereinafter provided. Notice of the time and place of such review shall be given to each land-owner whose lands are assessed. At such review the contesting owner, or land-owners, if more than one, jointly shall appear, and the proceedings shall be presided over and conducted by the Board, who shall have the same authority to enforce order as Magistrates have. After hearing the evidence and argument, and viewing the stream to be drained, if a majority of the jury desire to do

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ry shall examine and review all the assessments made by the Board for the drainage of that particular stream or locality. They may confirm or recast the same as they, or a majority of them, shall deem to be just and equitable, and, in like manner, they may decide the number of equal annual instalments in which the same shall be collected, and at what per cent. and by whom the costs and expenses of the review shall be paid. Their findings and report shall be in writing, signed by them, or a majority of them, and delivered to the Board, and the same shall be final and conclusive of the issues submitted. The jury may call in such assistance as they, or a majority of them, shall desire, to prepare their findings and report, to be paid for as other expenses. The finding and report of the jury may be submitted to them by the Board for corrections at any time before final adjournment of the review.

Sec. 1988. When the several assessments shall have been made, as herein provided, the same shall be and remain a lien upon the several tracts assessed, until the whole assessment, and any subsequent assessment for deficiency, as herein provided for, shall have been fully paid, and said lien shall be prior to all others, except the lien for State and County taxes. Within thirty days from the completion hereof, duplicate copies of such assessment roll, which shall contain the names of the owners of the several tracts assessed, a general description of each tract, the total amount of the estimated costs and expenses, the per cent. thereof assessed against each tract, and the number of instalments in which the same is to be collected, shall be deposited, one in the office of the Clerk of Court and the other in the office of the County Treasurer.

Sec. 1989. Said Board shall carefully preserve all petitions and other original papers in any proceeding under this Article, so that they may be conveniently referred to; and they shall keep a separate book, to be known as the record of drainage proceedings, in which shall be recorded all such minutes of their proceedings and such other papers as they may deem of sufficient importance.

Sec. 1990. In Darlington County. The said Board may cause any such stream, waterway, canal or ditch to be cleaned out, widened, deepened or straightened, either or

Assessments shall be a lien upon the land.

Civ. '02. § 1472.

Board to preserve all records.

Civ. '02. § 1473.

Powers of Board.

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all, as they may deem best, and may cause any such
and bottom lands or other lands to be drained
manner as they may deem best to subserve the end
either by contract or hired labor, or partly by
and partly by hired labor, and for that purpose
purchase and pay for the necessary machinery,
appliances. The Board shall take good and sufficient
for the faithful performance of all contracts.

Separate
proceedings
may be con-
solidated.

Civ. '02, §
1474.

Sec. 1991. Separate proceedings, begun for the
of different parts of the same stream or locality
the discretion of said Board, be consolidated, at
before the assessments shall become final, and at
consolidation the proceeding shall be conducted
proceeding.

General pow-
ers of Board
in cleaning
out streams.

Civ. '02, §
1475.

Sec. 1992. The said Board may cause any such
to be cleaned out, widened, deepened or straightened
or all, as they may deem best, and may cause
swamps and bottom lands to be drained in such
they may deem best to subserve the end in view,
contract or by hired labor, or partly by contract
by hired labor, and for that purpose they may
and pay for the necessary machinery, tools and a
They may employ the chain gang of the County
work, making a reasonable charge for the labor
to be paid for out of the drainage fund of the
question. The Board shall take good and sufficient
for the faithful performance of all contracts.

Power to
make addi-
tional assess-
ments.

Civ. '02, §
1476.

Sec. 1993. In case the amount raised by the
first made shall prove to be insufficient to complete
and pay all the expenses thereof, the Board may
additional assessment, which shall be sufficient to
deficiencies. Such additional assessment shall be
same percentage, and shall be collected in one
There shall be no review of or appeal from such
assessment.

Drain across
railroad bed.

Civ. '02, §
1477.

Sec. 1994. Whenever it shall be necessary to
drain across the right of way and roadbed of any
it shall be the duty of the railroad company or
operating such railroad, or any receiver thereof,
and maintain a suitable opening or culvert therefor
and across the right of way and roadbed. Th

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any railroad company or receiver thereof to comply with provisions of this Section shall subject such company or receiver to the forfeiture of ten dollars a day for each day's neglect, after thirty days' notice served on any ticket agent, freight agent, or officer of such company or receiver. Such forfeiture to be sued for and collected by said Board for the use of the drainage fund of that drain.

Sec. 1995. For the purposes of this Article, the guardians of infants and the committees of persons of unsound mind shall be held to be the owners of the lands of their respective wards, and tenants for life shall also be held to be the owners of the lands of which they may be so seized.

Guardians,
etc., to be
held as own-
ers of land of
infants, etc.

Civ. '02, §
1478.

In case any infant or person of unsound mind, interested in such proceeding, have no guardian or committee, the Probate Judge of the County in which such proceedings may be instituted shall, upon application of any other person interested, appoint a special guardian for such infant or person of unsound mind. Such special guardian shall appear for and represent his ward in all subsequent proceedings under this Article. No person shall be appointed special guardian who may be interested in the proceed-

Sec. 1996. In case any owner be a non-resident of the County in which such proceedings are instituted, it shall be sufficient, if any notice herein required be served on the agent or tenant of such owner, or other person in possession of the lands to be assessed. If no such agent, tenant or person in possession be found, then such notice may be served by depositing a copy thereof in the postoffice, sealed in an envelope, postage prepaid, directed to such owner at his last known place of residence. No proceeding shall be taken in pursuance of a notice served by mail until after the expiration of ten days from the deposit of the copy thereof in the postoffice.

Notices may
be served on
agent or ten-
ant when the
owner resides
out of State.

Civ. '02, §
1479.

Sec. 1997. The Clerk of the Court is hereby authorized and empowered to appoint a Commissioner *pro tempore* to sit in the place of any member of the County Board of Commissioners who may be disqualified by reasons of personal interest in such proceeding, or by relationship within the sixth degree to any party interested therein. Such Commissioner shall not be required to give bond, but shall

Vacancy on
Board; how
filled.

Civ. '02, §
1480.

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be sworn to faithfully discharge the duties of while so acting.

Financial statement to be kept.

Civ. '02, § 1481.

Sec. 1998. The said County Board of Commissioners shall make and keep a full and accurate financial and account of all expenditures made and incurred in connection with each proceeding hereunder, and they shall, on request, exhibit the same to and permit copies thereof to be made by any person interested in such proceeding.

How costs paid.

Civ. '02, § 1482.

Sec. 1999. The said Board shall draw their warrants on the County Treasurer for the amount of the per centum of the costs and expenses assessed against the County in any drainage proceeding as herein provided, and the County Treasurer shall pay the same out of any funds in his possession applicable to ordinary County purposes, and credit the same to the account of the drainage fund of the drain for which the same shall be assessed.

Power of Board to borrow money.

Civ. '02, § 1483.

Sec. 2000. The said Board shall have power and authority to borrow so much money as may be necessary for the purpose of carrying out the purposes of any proceedings under this Act. The Board shall not pledge as a security for the payment of any loan made therefor, the assessments made or to be made in connection with such proceeding, the rate of interest or discount on such loans shall not exceed eight per centum per annum. In any case shall the sum borrowed exceed such sum as the principal amount made will pay, together with the interest thereon. The money so borrowed shall be paid over to the County Treasurer, who shall receive the same and place it to the credit of the drainage fund for which it was borrowed.

How assessments collected.

Civ. '02, § 1484.

Sec. 2001. The County Treasurers of the several counties of this State are hereby authorized and required to collect the assessments made under the provisions of this Act, according to the assessment roll delivered to them by the Board of Commissioners of the several tracts herein assessed, and to add thereto the annual assessments to the State and County taxes on such land, and collect the same along with such taxes. They are hereby authorized and empowered and required to enforce the collection of such assessments in the same manner that State and County taxes are collected. They shall collect the same penalties and costs on failure to pay the same, as for failure to pay such taxes. All funds received from such assessments shall be kept separate from

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ands, and placed to the credit of the drainage fund for which they shall have been assessed and collected, and shall be paid out on the warrants of the said Board. The County treasurers shall be liable for the proper custody and disbursement of all drainage funds on and under their official hands as for other funds legally in their hands.

Sec. 2002. The spreading upon the books, or collection of assessments for drainage under this Article, shall not be stayed or prevented by any injunction, writ or order issued by any Court or Judge thereof; nor shall any proceeding under this Article be held void in consequence of any error, irregularity or informality therein, nor for neglect of recording thereof. All such proceedings shall be liberally construed and may be amended at any time, and may be had *new*, if necessary.

Assessments not to be stayed by injunction or to be void by reason of irregularity.

Civ. '02, § 1485.

Sec. 2003. When any such stream is the boundary line between two Counties, the County Board of Commissioners of the two Counties shall have joint jurisdiction in the drainage thereof, and may divide the work and liabilities between their County by sections or otherwise, at their discretion.

When stream is boundary line between two Counties.

Civ. '02, § 1486.

Sec. 2004. In Darlington County for each day of actual service rendered, each Commissioner shall receive a per diem of three dollars per day, and all costs of drainage hereunder, including pay of Commissioners, Sheriff's costs, and actual cost of drainage, and any and every other cost or expense shall be assessed against the property drained, and collected as herein provided.

Per diem of Commissioners.

Civ. '02, § 1487.

Sec. 2005. The provisions of Sections 1979 to 2003 inclusive shall not apply to or be enforced in the following Counties: Bamberg, Aiken, Greenwood, Colleton, Dorchester, Fairfield, Clarendon, Chesterfield, Sumter, Edgefield, Richland, Berkeley, Lancaster, Barnwell, Hampton, Florence, Beaufort, Horry, Kershaw, Lexington, Marlboro, Pickens, York, Abbeville, Georgetown, Williamsburg, and Oconee.

Certain Counties excepted.

1909, XXVI, 51. 220 : 1910, XXVI, 836.

Sec. 2006. The County Board of Road Commissioners of the Counties of Abbeville, Beaufort, Chester, Colleton, Darlington, Florence, Greenville, Laurens, Marion, Oconee, Pickens, Spartanburg, York and Union, respectively, are authorized, in addition to the duties now imposed on them

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County Board
of Commis-
sioners of
certain Coun-
ties to act as
Commission-
ers of Health
and Drain-
age; powers
and duties.

Civ. '02, §
1488.

by law, to act as Commissioners of Health and
and are empowered as such Commissioners of Health
Drainage to act as follows, to wit:

1. In all cases where a land owner desires to
land and is refused a necessary outlet upon
adjoining lands, the said Commissioners are here-
er to hear the case on petition and personal serv-
decide and fix either compensation on the one side
ment on the other, and their decision in such case
the force of a legal judgment.

2. In all cases where one-third of the land own-
any water course for a distance of not less than
up and down the stream in said County, or (except
ens County) where the water course is less than
in length, then when one-third of the citizens
entire length of said stream shall desire to drain
upon such water course, the said Commissioners
petition, personal service and the testimony of one
competent engineers, be empowered to make con-
such drainage and impose the proper assessment
various properties benefited by the same, and the s-
ment shall have the force of a legal judgment; but
of the above mentioned cases, should any p-
aggrieved by the decision or action of the Comm-
in the premises, it shall be lawful for him to app-
Judge of the Circuit Court at the term of the C-
ensuing, whose decision in the matter shall be final.

Non-petitioning land owners not benefited cannot be assessed.
Barry, 30 S. C., 530; 9 S. E., 589; 4 L. R. A., 294.

3. In cases where the general health is seriously
by the condition of any water course, the County
Commissioners shall, upon petition and proof of
one-third of the land owners upon such water cou-
one-third of the land owners within two miles on e-
of such water course, and not less than five mile
down the stream, which proof shall contain the
of two physicians, one of whom shall practice in t-
borhood, make an estimate of the cost and proceed
such water course as in cases heretofore provided
if, in the opinion of the County Board of Comm-
the cost of such drainage imposes too heavy an a-

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on the individual land owners upon such water course, y shall make a report in writing of the estimate and nion to the Judge of the Circuit Court at the next ensuing n thereof, and if he approve of such report and estimate, ich approval shall be in writing, the County Board of mmissioners shall contract for such drainage, and after ying a fair assessment upon all such property they shall rge the surplus of the cost of such drainage to the unt, to be carried into their estimate for the County enses for the next ensuing year, to be defrayed by a tax y on all the property in said Township, to be collected as State and County taxes are collected.

May levy a tax for.

. In cases where the general health of the County or ghborhood be seriously affected by the condition of any ll dam, the County Commissioners of said County shall ve the power to remove the cause of such nuisance; but a r compensation must be paid to the owner thereof, the ne to be assessed upon the property of those benefited by e removal of such nuisance. They shall further regulate e condition of all mill dams in said County by requiring e owners thereof to furnish such mill dams with a substan- l floodgate, if in their judgment the health of the neigh- rhood or the drainage of the land above the dams requires floodgate to be placed in the dam, to be opened at and pt open for such times as the said County Commissioners all direct: *Provided*, That in Darlington, Florence and ickens Counties the powers herein conferred shall apply e mill ponds and dams only: *And further*, That this sub- vision shall not be construed to oust the Court of General ssions of jurisdiction to abate any mill pond as a nuisance. ny person or persons ordered by the Board of County ommissioners to put in a floodgate in any mill dam under e provisions of this subdivision who shall fail to do so hall be deemed guilty of a misdemeanor, and shall be pun- shed by a fine not to exceed one thousand dollars, or be mprisoned for not exceeding one year.

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ARTICLE III.

RIGHT OF WAY FOR DRAINAGE.

Sec.

2007. Right to open waterway for drainage.

2008. Proceedings when land owners object; referees.

2009. Notice to non-residents.

2010. In cases of minors, lunatics, etc.

Sec.

2011. Board of Referees.

2012. Meeting of Board.

2013. Rights flowing from same.

2014. Proceedings in case of refusal of referees to appoint.

Right to open
water way
for drainage.Civ. '02, §
1489.Proceedings
where ser-
vant tenant
objects.Civ. '02, §
1490.

Notice.

Referees.

Notice to
non-residents.Civ. '02, §
1491.Proof of no-
tification.

Section 2007. Any persons owning lands which be properly drained through or over lands of others through or over which there is no right of way waterway or ditch cut, are authorized, as herein provided, to enter, construct and cut a waterway through and over such lands to the nearest waterway stream or outlet then existing.

Sec. 2008. If any owner or owners of such surface or adjacent lands shall signify his or their refusal opening of a sufficient waterway or ditch through lands without previous compensation, the person requiring such waterway or ditch shall give ten days in writing to the person or persons through whom such waterway or ditch is required of his intention to open and establish such waterway or ditch, naming notice a person who will act as referee for him in the event of a dispute thereon, and such owner or owners shall, within ten days thereafter, appoint a referee for the same purpose.

Sec. 2009. In case the owner of such adjacent lands be a non-resident of the State, such notice shall be given by ten days' notice, and shall be served by delivering the same personally to the agent of such owner, if any there be residing in the County in which said land lies; and if there be no such resident agent, then by publishing the same for a week for three weeks in the County newspaper having the largest circulation in said County, and also by delivering a copy of such notice to the owner at his last known abode; and no proceedings had under this Article shall be valid or effectual to conclude the rights of such owner until proof of compliance with the provisions of this Section shall be made under oath, approved by the said referee, and recorded, together with their finding.

Sec. 2010. If the owner or owners, or either or any of them, of such adjacent lands be a minor or minors, or *non compos mentis*, such proceedings shall be had to bar the rights of such minor or minors, or persons *non compos mentis*, as are now provided by law in the case of condemnation of lands for streets by municipal corporations.

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In cases of minors, lunatics, etc.

Civ. '02, § 1492.

Sec. 2011. The referees so appointed shall, within ten days thereafter, meet at some convenient place and appoint a third referee, and the three referees so appointed shall constitute a Board of Referees for the location of such waterway or ditch, and to determine the compensation and damages for the same, from whose decision an appeal shall lie as in cases in Magistrates' Courts.

Board of Referees.

Civ. '02, § 1493.

Action by.

Appeal.

Sec. 2012. Within ten days after the appointment of a third referee, in compliance with the foregoing Section, the three referees shall meet, and proceed, faithfully and impartially, to determine the question of location, compensation and damages submitted to them; for which purpose they shall inspect the premises in reference to the proposed waterway or ditch, and the quantity of land which shall be required therefor, with respect alone to the quantity and location of the land which shall be required, and the special damage the owner may sustain by reason of construction of the waterway or ditch through his land, and the amount of compensation which shall be made to the owner thereof, and shall render their verdict in writing for the same.

Meetings of Board.

Civ. '02, § 1494.

Duties.

Sec. 2013. Upon the payment of the compensation thus ascertained, the right of way over said lands shall be established, and the right to open and to repair the waterway or ditch from time to time shall forever remain inviolate; and the finding by the referees shall be recorded in the office of the Register of Mesne Conveyance of the County, at the expense of the party demanding such right of way, waterway or ditch.

Rights flowing from the judgment.

Civ. '02, § 1495.

Record of proceedings.

Sec. 2014. If the owner or owners of the lands over which such waterway or ditch is required shall not, in compliance with Section 2008 above, appoint a referee within the time required, the referee appointed by the person requiring such waterway or ditch shall proceed the same as if all three referees had been appointed, and his action

Proceedings in case the servient tenant refuses to appoint a referee.

Civ. '02, § 1496.

1912.

therein, in compliance with Section 2009, shall have force and effect as if the full Board of Referees

ARTICLE IV.

SANITARY AND DRAINAGE COMMISSIONS

Sec.

2015. Sanitary and Drainage Commission; appointment.

2016. Functions of Commission.

2017. Duties and powers.

2018. How moneys shall be paid over to Commission.

Sec.

2019. May apply for issue bonds.

2020. Not to affect age laws.

Governor
I appoint
Sanitary
Drainage
Commission
any Coun-
requesting

07. XXV.

actions of
mission.

ties and
res.

have con-
I over
as, etc.

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eye.

Section 2015. The Governor, upon the request of the Governor and Representatives, or a majority of the County in the State, shall appoint in and for said County (by and with the advice and consent of the Senate) a Sanitary and Drainage Commission, consisting of not less than five Members of the House of Representatives for each County, respectively, or a majority of them), not less than five more than five discreet and responsible and responsible holders, who shall be known as the Sanitary and Drainage Commission of _____ County, and whose term shall be for four years, and until their successors have been appointed and shall have qualified. In case of the death of any member, the Governor shall appoint likewise for the unexpired term.

Sec. 2016. That the functions of every such Commission shall be sanitary drainage, public utility drainage, agricultural drainage, in each County respectively.

Sec. 2017. That the duties and powers of every such Commission, in each County respectively, shall be as follows:

1. To have and exercise exclusive control (outside the limits of incorporated cities and towns) of all public drainage canals, ditches, drains, trunks, culverts, and the care and management thereof, with the exception of establishing the grades of public roads and roads within the area of its operations, and to alter the same.

2. To employ engineers to make appropriate topographical drainage surveys, maps, profiles, estimates, etc., of territory to be drained.

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3. To repair, alter or abolish any public drainage canals, ditches, drains, culverts, trunks, etc., and to dig and construct such additional ones as the Commission may deem essential to sanitary and drainage purposes. To make alterations and improvements.

4. To require any person or corporation (through whose lands private ditches or drains have been dug and opened), To compel drains to be kept in good order. to connect with the public drainage canals; ditches or drains, and to keep the same open and in good order, and in harmony with the general system of drainage in the territory where said system may be established by the Commission; and in case of the failure of any such person or corporation to do, to have the same done after thirty days' notice to such person or corporation, or his, her or its agent; and all expenses and charges paid or incurred by the Commission therefor shall and may be recovered, with interest and costs of suit, in an action of debt to be brought by the Commission in the Court of Common Pleas against such person or corporation: *Provided*, That said expenses and charges do not exceed more than one-fourth of the value of said lands.

5. To require any person or corporation, whose lands, 1910, XXV 702. in their judgment, are in an unsanitary condition and require drainage, to dig and open drains or ditches, or lay underdrains, and connect the same with the public drainage canals, ditches or drains, and to keep the same open and in good order, and in harmony with the said general system of drainage, and in case of the failure of any such person or corporation so to do, to have the same done after ten days' notice to such person or corporation, or his, her or its agents: and upon such notice being filed in the office of the Clerk of the Court of the County in which said land is situated, subsequent purchasers of said lands pending such work shall be liable to the said Commission, and all expenses and charges paid or incurred by the Commission therefor shall and may be recovered, with interest and costs of suit, in an action of debt to be brought by the Commission in the Court of Common Pleas against such person or corporation: *Provided*, That said expenses and charges do not exceed more than one-half the value of said land.

6. To utilize the County chaingang, in whole or in part, To utilize the County chaingang. in any kind of work for drainage purposes, when not needed

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for road purposes, and to hire convicts from other and from the State for any such work.

To do all
ork for
rainage pur-
poses.

7. To do any and all work for drainage purposes, to employ convict labor or otherwise, or else to enter into contracts for such work, or any part thereof, after advertisement and award to the lowest responsible bidder: That the aggregate expenses for any fiscal year shall not exceed the amount that may be apportioned by law, but not more than is otherwise provided for drainage purposes for the fiscal year.

To prepare
estimates.

8. To prepare an estimate of the amount necessary to pay the expenses to be incurred by the Commission for drainage purposes and report the same to the Comptroller-General for the State, on or before the 5th day of January of each year, to be by him submitted to the General Assembly in order to provide the necessary County or State taxation therefor.

To condemn
lands.

9. To condemn all lands necessary for the proper drainage of swamp and low-lands; and also to equitably apportion all lands so drained for the purpose of paying the expenses of such condemnation and drainage and report the same to the Comptroller-General of the State, on or before the 1st day of January of each year, to be by him submitted to the General Assembly, who shall provide therefor.

To report to
General
Assembly.

10. To make a report to the General Assembly on the first day of each regular session, of its actings and proceedings, including a full statement of the moneys received and expended by it, together with its recommendations for the work proper to be done, and money expended under the provisions of this Act, with such other recommendations as it may deem proper.

How moneys
it be paid
to the
Commission.

Sec. 2018. That any and all moneys appropriated for such Commission shall be paid by the County Treasurer to the County from said appropriation, on a certificate of the Commission to and signed by the Secretary and Treasurer of the Commission and countersigned by the Chairman thereof. The said Secretary and Treasurer shall be elected by the Commissioners, or a majority thereof. The said Secretary and Treasurer shall be bonded, and the amount of his bond shall not be less than the amount of the appropriation for the current year; said bond to be approved by the State of South Carolina, to be approved by a majority of the members of the Court for the County.

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Sec. 2019. That every such Commission shall have the right at any time, if necessary, to apply to the General Assembly for an issue of County or Township bonds, in order to fully prosecute the work of drainage throughout the county or any Township thereof. May apply for authority to issue bonds.

Sec. 2020. That nothing in this Article contained shall be construed as affecting any duties and powers (other than those herein specified) lawfully existing for the purposes of drainage in any County of the State. Not to affect existing drainage laws.

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CHAPTER XXXIII

General Stock Law and Fencing Stock; and Provisions as to Fencing Fields and Crops Excepted.

ARTICLE 1. *General Stock Law.*ARTICLE 2. *Special Provisions as to Fencing Fields and Crops in Places Excepted.*

ARTICLE I.

GENERAL STOCK LAW.

Sec.

2021. Animals prohibited from running at large; exception; proviso as to Beaufort Co.

2022. Liability of owners of trespassing stock.

2023. Stock trespassing may be seized; penalty.

Sec.

2024. When owner liable for maintenance; how cover possession.

2025. Proceedings when owner known; adverse sale; proceedings disposed of.

2026. Proceedings on application of owner to adjust.

Animals prohibited from running at large; exceptions.

Civ. '02, § 1497; 1908, XXV, 1048; 1905, XXIV, 959; 1906, XXV, 116.

Section 2021. Except in the County of Horry and other Counties in this State, which, by or under the provisions of Special Acts of the General Assembly, and subject to the conditions therein contained, have been exempted from the provisions of this Article, it shall be lawful for the owner or manager of any horse, mare, genet, swine, sheep, goat or neat cattle of any description, or for any other person, to permit the said animal, or any other domestic animal, to run at large beyond the limits of his own land, or the lands leased or controlled by him, but nothing contained in this Article shall prohibit the running at large of said animals, or any of them, within the County of Beaufort, between the first day of December and the first day of March; and in the Counties of Beaufort, Pocotaligo and Sheldon Townships, and

and; and excepting Coosawhatchie and Hilton Head townships and St. Helena Island, so far as swine are concerned: *Provided*, That all stock may run at large, at all seasons, in that portion of Yemassee and Bluffton Townships bounded as follows: on the north by Colleton and Waccamaw Rivers, and a fence running from the head of the Waccamaw River to the Atlantic Coast Line Railroad at Big Switch, near Switzerland; on the north and west by the Atlantic Coast Line Railroad, from Big Switch to the Savannah River; on the west by the Savannah River; on the south and east by Savannah River, Cooper River, Calibogue Sound, Skull Creek and Broad River.

A. D. 11
General of
laws.

Sec. 2022. Whenever any of said stock or animals shall be found upon the lands of any other person than the owner or manager of the same, the owner of such trespassing stock shall be liable for all damages sustained, and for the expenses of seizure and maintenance, the said damages and expenses to be recovered, when necessary, by action in any court of competent jurisdiction; and the said trespassing stock shall be held liable for the same, in preference to all other liens, claims, or encumbrances upon it.

Liability
owners
stock to
passing.
Civ. '02,
1498.

Plaintiff entitled to such damages, whether he had conformed to law or not.—*Utsey v. Elliott*, 30 S. C., 360; 9 S. E., 957. As to pasture across railroad.—*Simkins v. R. R. Co.*, 20 S. C., 263; *Molair v. R. R. Co.*, 29 S. C., 2; 7 S. E., 60; *Harmon v. R. R. Co.*, 32 S. C., 127; 10 S. E., 877.

Sec. 2023. Any freeholder or tenant of land, his agent or representative, may seize and hold possession of any of the trespassing animals which may be trespassing upon his premises, and as compensation for such seizure, may demand of the owner of every horse, mule, ass, genet, bull, ox, cow, calf, or swine, the sum of fifty cents, and for every sheep, goat, or other animal not herein named, the sum of twenty-five cents, together with just damages for injuries sustained, which declaration shall, when possible, be laid before the owner of the trespassing stock within forty-eight hours after seizure.

Stock trespassing may be seized penalty.
Civ. '02,
1499.

Sec. 2024. In case the claim shall not be amicably or legally adjusted, and the trespassing animals recovered by the owner within twelve hours after the receipt of such notification, the owner shall further become liable in a sum sufficient to cover the maintenance and care of his stock up to the time of its removal; but the owner shall be entitled to

When claim not adjusted in twelve hours, owner liable for sum to cover maintenance. If seizure; he recovered.
Civ. '02,
1500.

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ARTICLE II.

SPECIAL PROVISIONS—FENCING FIELDS AND CROPS IN PLACES
EXCEPTED.

	Sec.
1. To what Counties confined.	2041. Portions of Georgetown ex- empted.
2. Portion of Berkeley exempted from stock law.	2042. Portions of Greenville ex- empted.
3. License tax in Berkeley County.	2043. Portions of Hampton County exempted.
4. Line fence Commission.	2044. Portions of Hampton County exempted.
5. Organisation.	2045. Portions of Kershaw County exempted.
6. Portion of Berkeley and Charleston exempted from stock law.	2046. Neighborhood pastures in Lexington.
7. Portion of Berkeley exempted during certain months.	2047. Portions of Marion exempted.
8. Portion of Chesterfield ex- empted.	2048. Neighborhood pastures in Marion.
9. Portion of Colleton exempted.	2049. Portions of Oconee exempted.
10. Portion of Dorchester ex- empted.	2050. Portions of Pickens exempted.
11. Portion of Williamsburg and Florence exempted.	2051. Lawful fence defined, etc.
12. Portion of Florence exempted.	2052. Trespass on fields by stock, etc.
13. Portion of Williamsburg ex- empted.	2053. Action for injury to stock.
14. Partial exemption in Wil- liamsburg during certain months.	2054. Crops in certain sections to be fenced.

Section 2027. The provisions of this Article shall apply to those Counties and parts of Counties where the law commonly known as the Stock Law is not of force.

Sec. 2028. All that section of Berkeley County included within the following described limits and boundaries is exempted from the operation of Article I of this Chapter, relating to the general stock law:

Beginning at Hilton's Cross Roads, on the State Road, and running down the said road to the thirty-five mile post; thence following a road leading from the thirty-five mile post to the residence of Henry Measels, and from thence to a point where said road is intersected by the lines separating the lands of Frederick Connor and the late G. W. Shingler; thence southward along the line of Frederick Connor's land where it is intersected by the Colleton and Berkeley County line; thence down the said line to where it is intersected by the line of incorporation of the town of Summerfield; then following Colleton County line down to point

To what
Counties pro-
visions con-
fined.

Civ. '02, §
1503.

Portion of
Berkeley
County ex-
empted from
the stock
law.

Civ. '02, §
1504.

A. D. 1913.

opposite Eighteen (18) Mile Post on S. C. Ry.; air line from Eighteen Mile Post on S. C. Ry. to on N. E. R. Rd.; following N. E. R. Rd. south Mile Crossing of N. E. R. Rd. with State R. State Road to Back River Road; along Back River Road to Hannahan's Canal; along Hannahan's Canal to Back River; along Back River to Back River Creek; along Foster's Creek to Back River; along Back River to its headwaters; from headwaters of Back River through Chappel's Swamp to Chappel's Church on Corner Road to Strawberry Road; then along Strawberry Road to Strawberry Station on the Northeastern Railroad; thence along the line of the Northeastern Railroad to Strawberry Station; thence along the road leading from Oak to the Barrows; from thence along the road leading from the Barrows to Isaac Brown's premises, at which point it will take a northerly direction to the settlement of the estate of D. M. Winter, following then the line of the already constructed contiguous to the plantations of Bunker Hill, Summerset, Hog Swamp, White Mountain, Esterdown, Ophir Wards, Duck Pond to Friendship, where it will take the Ridge or Calamus Pond Road to Monck's Corner Road to Calamus Pond, along Calamus Pond Road to West Point, and then along New Road to Cross Road, the commencing point.

License tax
in Berkeley
County.

Sec. 2029. There shall be paid by each owner of cattle, sheep, goats or hogs, within that portion of the County exempt from the general stock law, and defined in Section 2028, the following license tax, to wit: on every head of cattle, ten cents per annum; on every head of goats or hogs, five cents per annum; said tax to be paid to the County Treasurer of Berkeley County at the same time as taxes for State and County purposes are paid. The same shall be charged by the County Auditor on the tax duplicate received for by the Treasurer on the ordinary tax receipt. The said taxes, when paid to the County Treasurer, shall be held by him subject to the warrant of the chairman or secretary of the Line Fence Commission herein provided for.

Line Fence
Commission.

Sec. 2030. The Governor shall, upon the recommendation of the delegation in the General Assembly from Berkeley County, appoint a Commission, consisting of

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ders residing in said exempted territory, whose term of office shall be two years, and until their successors are appointed and qualified; three of said Commissioners shall reside in the Parish of First Goose Creek, three in the Parish of Second Goose Creek, and three in the Parish of St. John's; said Commission to be known as the Line Fence Commission.

Sec. 2031. The said Commission shall elect from among their number a Chairman and Secretary, and shall cause to be erected and kept in repair a substantial wire fence around said exempted territory; and for such purpose shall draw on the fund herein provided for, whose warrants shall be paid by the County Treasurer out of said funds, and said funds shall be expended only for the purpose of erecting and repairing said line fence.

Sec. 2032. There shall also be exempted from the operations of said General Stock Law, that section of Berkeley and Charleston Counties bounded by a line commencing on the south bank of the Santee River, at the point where the Northeastern Railroad touches the same, along the eastern side of said track to a point where said track crosses the Santee Canal; from that point along the eastern bank of said canal to its southern extremity; thence, by the shortest line, to the Cooper River Road at Wadboo Bridge, and along the Eastern Branch Road to Hugh's Bridge on the eastern bank of Cooper River; thence down said eastern branch of said river to the main river; thence down said river to the Wando River; thence up the western bank of said Wando River to the Wando plantation; thence to the seacoast; thence along the seacoast line of Charleston County to the mouth of the Santee River, and along said river, the same being the County line, to the point of intersection of the track of the Northeastern Railroad with the said river.

Sec. 2033. All of Berkeley County, except St. Andrew's, St. John's, Colleton, and Christ Church Parishes, are exempted from the effect and operation of Article I of this Chapter, relating to the General Stock Law, from the first day of December of each year until the fifteenth day of March of each year: *Provided, however,* That this Section shall be of force and have effect only between the last named dates.

Organisation

Section of
Berkeley and
Charleston ex-
empted.Civ. '02.
1505.Portion of
Berkeley ex-
empted for
winter only.Civ. '02.
1506

A. D. 1912.

See *Sanders v. Venning*, 88 S. C., 502, 17 S. R., 134, holding that Act XIX, 973, void as class legislation.

Portion of
Chesterfield
County ex-
empted.

Civ. '02, §
508.

Sec. 2034. All that certain section of the County of Chesterfield lying within the following boundaries, to-wit: beginning at a point to be determined by the County Commissioners of Chesterfield on the public road extending from Chesterfield Court House to Society Hill, near S. W. Evan's mill, and running thence in a southwesterly direction or near to the line between the Counties of Chesterfield and Darlington to a point some distance beyond Bear Creek, to be determined by the aforesaid Board of County Commissioners; running thence in a westerly direction to another point on Lynches River, somewhere below the junction of Cedar Creek with Lynches River, this point to be determined by said County Commissioners; running thence by a line up and along or near to Lynches River to a point not far from the junction of Big Sandy Run with the aforesaid river; running thence from this point by a line a little east of north to a point on the north side of Bear Creek at or in the neighborhood of the Burgess place; running thence by a line from the last named point to a point near Pisgah Church; and continuing the same line to a point on the public road between Chesterfield Court House and Bishopville, about eight and one-half miles from Chesterfield Court House, from which point the line is to be continued to a point on the north side of the public road from Chesterfield Court House to Society Hill, and about one mile east thereof, and about two miles west of Big Juniper Bridge; thence to said bridge; thence to John Highland's, Sr.; thence crossing the said railroad to Chesterfield Court House to Society Hill and running parallel with it to the beginning; or if the County Commissioners so direct, from the said point on the public road between Chesterfield Court House and Bishopville to Grant's mill; thence down Bear Creek to Thompson's mill; thence down said creek to the Cheraw and Darlington road; thence parallel with said railroad to a point near S. W. Evan's mill; thence to the beginning.

exempted from the operation and provisions of Article III of this Chapter "General Stock Law": *Provided*, that the residents of the section named shall build and keep

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er a fence along the lines above prescribed, such fence be fully five feet high at every point and sufficiently strong and close to protect the lands outside of said territory from the incursions of all stock and animals exempted in the said General Stock Law, and this exemption shall not take effect until said fence is completed, and shall be in force as soon as there is a failure to keep said fence up at any point.

Residents to
maintain
fences.

The County Commissioners of Chesterfield and their successors in office shall, and they are hereby authorized and empowered in conformity with this Section to determine the precise location of the aforesaid lines at all points.

Duties of
County Com-
missioners.

Act providing for Commissioners to superintend fence and provide for maintenance, 1899, XXIII, 172. And election as to continuance of stock exemption, 1901, XXIII, 814.

Sec. 2035. The following portions of Colleton County are exempted from the operations of Article I, of this Chapter, relating to the General Stock Law: (1) All that portion of Colleton County bounded north by the Edisto River, south by the Little Salkahatchie and Combahee Rivers, east by the Charleston and Savannah Railway, and west by the Barnwell line on the Edisto River, and running to the Little Salkahatchie River, along the said Barnwell line, except that portion bounded by the Ashepoo River on the north and south by the Charleston and Savannah Railroad, and west by the Green Pond, Walterboro and Branchville Railroad; except that portion of Colleton County as is bounded on the northeast by Hyme Branch and Ashepoo River, south by the track of the Atlantic Coast Line Railroad Company, hereinafter known as the Charleston and Savannah Railroad, and west on track of the Atlantic Coast Line Railroad Company and before known as the Green Pond, Walterboro and Branchville Railroad. Also (2) all that portion of Broxton Township, in the County of Colleton, embraced within a line running from the south of Willow Swamp, on the Little Salkahatchie, to the Cross Swamp Public Road; from thence north and across to the Salkahatchie River, at or near the residence of A. T. Varn, along the elbow of Cross Swamp Public Road: *Provided*, That the residents of the section named shall build and keep in good repair a fence along the line above described, such fence to be fully five feet high at every

Portions of
Colleton
County ex-
empted from
stock law.

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point if built of rails, also to be well staked and sufficiently strong and close to protect the land of said territory from the incursions of all the animals named in the said General Stock Law. The exemption shall not take place till said fence is built and shall cease as soon as there is a failure to keep the fence up to any point.

Also, (3). All that portion of Glover's and Townships bounded on the north and east by the River, south and west by a fence already built commencing at W. B. Risher's plantation, on the River, thence in a southerly direction to Logan's plantation, thence in an easterly direction to a point on the River about one hundred yards above Sullivan's plantation.

Also, (4). All that section within a line bounded by Parker's Ferry, thence along the Parker's Ferry Road, thence along Dellmar's Cross Roads, thence along the road to New Road Station on the Charleston and Savannah Railway, thence along the Savannah Railway to the Edisto River, thence up the River to Parker's Ferry.

St. Paul's
Parish in Col-
leton County
exempted.

1892, XXI,
227.

Exempted
area.

Excepted
section.

Line of fence.

Also, (5). All that portion of Colleton County known as Saint Paul's Parish, and so delineated on the maps and plats of the State, are exempted from the operation of the General Stock Law, as enacted in Article I of the Constitution. *Provided*, This Section shall not apply to that portion of said Parish lying below a line running from the mouth of Stephen Barnwell's plantation at or near W. B. Risher's plantation on Pon Pon River, to a point on Toogoodoo Creek near the Toogoodoo Bridge and down said creek to where it enters into the North Edisto River: *Provided*, That the citizens of the territory exempted under the provisions of this Section shall build a fence from the mouth of Pon Pon River to the said point on Toogoodoo Creek separating the portion above described from the portion exempted under the provisions of this Section, and a proper gate at said Toogoodoo Bridge to prevent the escape of animals. Said fence to be kept up to the height of four and one-half (4½) feet.

6. All that portion of Colleton County bounded by the following, to wit: North by Bamberg County, beginning

A. D. 1912.

to River, and running the line between said Counties Colleton and Bamberg to the Little Salkehatchie River, down the run of said river to the junction or inlet of the Willow Swamp, and up the run of said Willow Swamp to public highway leading from Stephens Crossroads, and thence to Toby's Bluff up the said public highway by way of Cross Swamp Church; east, from the junction of Colleton and Bamberg Counties down the Edisto River to A. C. L. Railroad near Jacksonboro; south, by the A. C. L. Railroad from the Edisto River on the east to the Salkehatchie River on the west; bounded on the west by the Salkehatchie River, beginning at the Coast Line Railroad crossing and up the Big Salkehatchie River to Toby's Bluff; except that portion near Green Pond bounded by the Walboro and Western Railroad, the Ashepoo River running from the said A. C. L. Railroad to Ivanhoe, and the Coast Line Railroad from Ashepoo River to Green Pond.

So much of Colleton County as is situated between the west side of Little Swamp and Little Salkehatchie (commencing at the Bamberg line at or near Bull Bay) shall be exempted from the operation of the exemptions of the General Stock Law.

Upon the refusal of the land owners on the line to give or allow the said fence to be constructed through or upon their land, then the citizens of the territory to be exempted shall have the right to proceed according to law to condemn said land of way and sufficient timber upon the said line to build, maintain and keep said fence in good repair, and upon failure to keep up the said fence this Section shall be void and of no effect.

All the residents within the section of country hereinbefore described may allow their stock to run at large, and the fences for the protection of crops built within such section shall be close and strong enough to prevent roaming of stock from passing through, and at least five feet high, in order to allow the citizen erecting such fence the privilege of poundage.

This exemption shall take effect immediately after the construction of the fence above mentioned.

Rights of condemnation.

Stock to run at large.

Character of fences.

When to take effect.

A. D. 1012.

Williamsburg and Florence Counties shall have the right to alter the lines herein provided for by beginning at or near Lake City and extending the line in a southerly direction as far as they may be petitioned so to do; thence across so as to intersect with the fence on the western boundary of said exempted territory; and in case said line is changed by the County Commissioners, said territory so included shall be subject to all the provisions of this Section.

For the purpose of keeping in repair and building such fence as may be necessary to enclose the prescribed territory in this Section, the County Board of Commissioners of the Counties of Williamsburg and Florence, respectively, are hereby authorized and required, by contract or otherwise, to build and to repair the fences now existing, and to keep the same four and one-half feet high, and for this purpose there shall be levied such tax as may be necessary; the amount of said tax shall be fixed by said County Board of Commissioners and collected each year upon all the live stock, of whatsoever kind, running at large in said area, such tax to be levied and collected at the same time and in the same manner as other County tax. It shall be the duty of said Board of County Commissioners to meet on or before the fifteenth day of April in each and every year, in the prescribed territory in this Section, and shall make all suitable arrangements, by contract or otherwise, to carry out the provisions of this Section.

All owners of farms and persons cultivating lands, situated within the exempted portions of said Counties, whether owners, tenants, renters or lessees thereof or otherwise shall be required to enclose, and keep enclosed, their farms, fields in cultivation, and crops, with lawful fences; and any of such persons whose fields, farms and crops are not so enclosed, shall kill, wound, maim, or in any manner injure any cattle, horses, mules or any other live stock which shall be found in any such farm or field, whether in cultivation or not, or cause or procure the same to be done by any other person, shall be deemed guilty of a misdemeanor, and, on conviction thereof, be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days.

Provisions
for enclosing
prescribed ter-
ritory with
fence.

Persons with-
in exempted
portion to en-
close their
farms.

A. D. 1912

and also in that other portion of Williamsburg County bounded by a line beginning on Holmes Swamp, north of residence of Maj. J. B. Chandler, and thence a northerly direction to Eliza Church; thence with the old Georgetown Road to the residence of Mrs. Coleman; thence across to the Potato Ferry Road at Ellis McClary's; thence following the Potato Ferry Road to its intersection with Aunt Ann's Branch.

Ammer v. Brown, 40 S. C., 336; 18 S. C., 938.

And also in all that section of Ridge Township bounded by a line to begin on the public road known as the Lindsay road at the northern boundary of H. W. Gaskin's land, and thence running with said road to Lake Swamp, thence running with northern side of said swamp to Brown's bridges across said swamp on the Anderson Bridge Road, thence running with said Anderson Bridge Road to the Indian Township line, thence running with said line to where it crosses the old Georgetown Railroad, thence running with said railroad to intersection with the Kingstree public road, thence running with said Kingstree public road to intersection with John Frierson's private road, thence running with said private road direct to the old Georgetown Railroad, thence running in a direct line to the western boundary of P. Epps's land, thence running a due northwest course through Frank Fleming's, thence running to H. W. Fulmore's land, thence running directly northeast to the aforesaid starting point on the Lindsay public road.

See Act 1880, XVII, 412, as to Section in Edgefield County, under which the County Commissioners could be compelled by mandamus to keep fence in repair. -*State v. County Commissioners of Edgefield County*, 18 S. C., 597.

Sec. 2041. All those portions of the County of Georgetown embraced within the boundaries hereinafter described shall be exempt from the provisions of Article I of this Chapter, relating to the General Stock Law and fencing stock, - Portions of Georgetown County exempted from general stock law.
 1892: 1st. All that section having for its northern boundary the Black River, for its southern boundary the Santee River, for its western boundary the line between the Counties of Georgetown and Williamsburg, and for its eastern boundary a line beginning at Santee Ferry, extending along the Charleston public road to Sampit Ferry, near Georgetown, thence along the line of the corporate limits of the

Act. '02, 1515

A. D. 191

e, at a point at the foot of the mountains, near Milton
 Trammell's; thence southeast to Saluda River, at a point
 ar James Gosnel; thence across said river and across Rich
 ountain to Lindley's Gap, near John Harrison's, on Paco-
 River; thence down said river to the Claybern Trammell
 ace; thence to Lewis Pearlies, *via* Austin Balew's; thence
 the upper end of Thomas M. Balew's mill pond, *via* Mrs.
 dams' and Cornelius Wofford's; thence to Howard's Gap
 oad, on North Carolina line at Flint Mills, *via* Mrs.
 mith's place and Dr. Simpson's, be, and the same is
 hereby, exempted from the operations of the provisions of
 rticle I of this Chapter: *Provided*, That the residents of
 e section named shall, at their own expense, build a good
 nd sufficient fence along the line above described, or, if
 ready built, to keep the same in good repair, sufficient to
 rotect the lands outside of said territory from incursions
 f all stock and animals named in said General Stock Law;
 nd this exemption shall not take effect until the said fence
 s completed, or if already built, shall cease as soon as there
 s a failure to keep up said fence at any point: *Provided*,
 urther, That good, convenient and substantial gates shall
 e placed on all public roads crossed by this fence, at the
 xpense of the residents of the boundary herein exempted;
 nd the penalty for having said gates open shall be the same
 s for leaving pasture fences down, as provided for in the
 General Stock Law.

Portion
 Greenville
 County
 exempted fr
 general stc
 law.

Area of
 exempted se
 tion.
 Clv. '02.
 1516.

Exempt
 from stc
 law.

Fences to
 built a
 maintained

Gates
 public road
 Penalty
 leaving ga
 open.

The County Commissioners of Greenville County shall,
 and they are hereby authorized and directed to, determine
 the exact location of the aforesaid boundary line.

Location
 boundary li

Sec. 2043. If a majority of the freeholders of Robert and
 Coosawhatchie Townships, in Hampton County, shall peti-
 tion the County Commissioners of said County so to do, it
 shall be the duty of the said Commissioners to submit to the
 qualified voters of said Townships the question of exempt-
 ing said Townships from the operation of Article I of this
 Chapter, relating to the Stock Law; and if a majority of the
 qualified voters, voting thereon, shall vote in favor of such
 exemption, said territory shall be so exempted, and it shall
 be the duty of the County Commissioners to cause to be
 erected a good and substantial fence along the line of said
 Townships from low water mark on the Savannah River

Exempt
 of Robert
 Coosawb
 chie To
 ships
 Hampton
 to be de
 mined by e
 tion.

Clv. '02
 1517.

Fences.

A. D. 1912.

and the County Auditor shall duly assess and enter, and the Treasurer shall duly collect, said tax levy at the same time as other taxes are assessed and collected in said County, and the Treasurer shall hold such taxes subject to the draft of the County Commissioners for the said purposes; that said territory or section to be so assessed for said tax, upon petition as aforesaid, is bounded as follows: Northwest by the public road leading from Toby's Bluff, on the Great Salkehatchie River, to Varnville, on the Port Royal Railroad, and thence to Hickory Hill, and thence to Stafford, and thence to Robertville, and thence to Sisters' Ferry; and bounded south by the Savannah River, north by the Great Salkehatchie River, and east by the Charleston and Savannah Railroad; and the said County Commissioners shall erect said three strand wire fence, with substantial posts and said gates, as soon as enabled so to do by the funds realized from said tax.

Assessment and collection of tax.

Area of exempted territory.

Kind of fence.

Upon the completion of said fence and gates along the northwestern boundary of said territory as aforesaid, the said territory shall be exempt from the operation of Article I of this Chapter so far as the same relates to cattle, horses, mules and sheep, but there shall be no exemption therein from said General Stock Law as to hogs and other stock not hereinbefore enumerated.

Territory to be exempt from stock law in part.

Sec. 2045. All that certain section of the County of Kershaw lying within the following boundaries, to wit: Commencing at a point where Little Lynche's Creek empties into Lynche's River, and running thence up Lynche's River to the Lancaster line; thence along said line in a westerly direction to Little Lynche's Creek aforesaid; thence down said Little Lynche's Creek to the beginning point where Lynche's Creek and Lynche's River intersect, is exempted from the operation of the provisions of Article I of this Chapter: *Provided*, That the residents of the section named shall build a fence along the lines described sufficiently strong and close to protect the land outside of said section from the incursions of all stock and animals named in said General Stock Law, and this exemption shall not take effect until said fence is completed. That it shall be the duty of the County Commissioners of Kershaw County to keep said fences as now erected, or to be hereafter erected, around

Certain portions of Kershaw County exempt from the operation of the General Stock Law

Civ. '02, § 1519

Residents to erect fence around exempted section.

A. D. 1912.

d from Porter's Bridge to Camden, is exempted from operation of the provisions of Article I of this Chapter, titled "General Stock Law": *Provided*, That the residents of the section named shall build a good and sufficient fence along the lines above described to protect the lands outside of said territory from incursions of all stock and animals named in said General Stock Law; and that this exemption shall not take effect until the said fence is completed and shall cease as soon as there is a failure to keep up said fence at any point: *Provided, further*, That good, convenient and substantial gates shall be placed on all public roads crossed by this fence, and the penalty for leaving an open gate shall be the same as for leaving pasture fences open, as provided for in the General Stock Law; *Provided, further*, That any landholder whose lands are on the lines herein set forth may have his or her lands excluded from the provisions of this Section by requiring the County Commissioners of said County to locate the boundary lines so as to leave his or her lands without the territory embraced within the boundary lines set forth in this Section: *Provided, further*, That said fence be completed on or before the first day of January, 1899, and in case of failure to complete the fence by said time, then this Section shall not apply.

Also all that certain section of the County of Kershaw lying within the following boundaries, to wit: The right of way of the Charleston, Cincinnati and Chicago Railroad Company, commencing at the five mile post from Camden, thence to Hanging Rock Creek to Lynch's River; thence along said river to a point where it is crossed by the public road between Camden and Cheraw, known as the Telegraph Road; thence along said road to the five mile post from Camden, thence to the starting point, exempted from operations of the provisions of Article I of this Chapter, known as the Stock Law: *Provided*, That the residents of the section named shall build a good and sufficient fence along the lines above described to protect the lands outside of said territory from incursions of all stock and animals named in said General Stock Law; and this exemption shall not take effect until the said fence is completed, and shall cease as soon as there is a failure to keep up said fence at

Residents of
exempted sec-
tion to build
fenceGates to be
erected.Land owners
on line may
require that
their land be
left outside of
exemptionOther por-
tions of Ker-
shaw exempt-
ed from oper-
ation of Stock
Law.Limits.
1894. XXI.
1119.

Fence

A. D. 1912.

Gates.

Lands ex-
cluded.Time for
completion

Lines.

Neighborhood
pastures in
Lexington
County. Form
of agreement.Civ. '02. §
1520.To be re-
corded.

Fences.

any point: *Provided, further,* That good, con-
substantial gates shall be placed on all public r-
by this fence, and the penalty for leaving them
be the same as for leaving pasture fences down,
for in the General Stock Law: *Provided, fu-*
any landholder whose lands are on the lines her-
may have his or her lands excluded from the p-
this Section by requiring the County Comm-
said County to locate the boundary line or li-
leave his or her lands without the territory emb-
the boundary lines set forth in this Section:
further, That said fence be completed on or bet-
day of March, 1896; and in case of failure to c-
fence by said time, then this Section shall not

The County Supervisor of Kershaw County s-
is hereby authorized and directed to, determin-
location of the aforesaid boundary lines: *Pro-*
the General Stock Law as it now exists shall
stock not kept within the lines prescribed in th-

4. Also all that certain other section of Kers-
lying within the following boundaries, to wit: c-
at McGrogan's Bridge, on Little Lynche's Cre-
up said creek to near the Jones' Bridge; thence s-
Lynche's Creek where the fence now stands to
Mill; thence down Big Lynche's Creek to You-
thence down the Telegraph Road to McGrog-
on Little Lynche's Creek. That this subdivis-
subject to the same provisions and provisos c-
Subdivision 3 of said Section 2045, except th-
provided for in this subdivision shall be comp-
first day of July, 1903.

Sec. 2046. Whenever any number of citi-
owners of Lexington County, owning contiguous
land, shall enter into a written agreement, under
and seals, in presence of two witnesses, setting
intention to voluntarily establish upon their c-
neighborhood pasture, and the boundaries there-
have the same duly recorded in the office of the
Mesne Conveyances for Lexington County in t-
recording deeds, and shall build and maint-
boundaries a good and lawful fence, the area

shall be exempt from the operations of Article I of this Chapter, known as the "General Stock Law," so that the landowners within such boundaries shall fence their farms, and permit their stock to run at large.

A. D. 1912.

Exemption
from stock
law.

Any neighborhood pasture established as aforesaid may be enlarged or diminished by an additional agreement executed and recorded as aforesaid.

Change in
size.

No such pasture established as aforesaid shall be discontinued so long as the contractors, or their grantees, keep a good, substantial fence around the boundaries thereof, and so long as a majority of the landowners within the boundaries thereof desire that the pasture be continued.

Duration of
pasture.

All persons buying lands situate in any such pasture, of which they have become purchasers through the original contractors, shall be bound by the provisions of this Section as the original parties to the agreement.

Subsequent
purchasers.

The Statutes, 1886, XIX, 528; 1887, *Id.*, 1057; 1889, XX, 525, and 1890, XXI, 539, which attempt to exempt certain Sections in Lexington County from the operation of the stock law, having been held unconstitutional in *Fort v. Fort*, 104 S. E., 228, 15 S. C., 445; 15 S. E., 728, are omitted from this Section.

Sec. 2047. 1. All that certain section of the County of Marion lying within the following boundaries, to wit: Commencing at the Shell Landing, on the Little Pee Dee River, and running in a westerly direction, following the public road known as the Potato Bed Ferry Road to the northern or eastern line of J. S. Johnson's land, and continuing thence through the Buck Swamp, and across the public road leading to Britton's Ferry, into the River Swamp, and terminating at a place known as Ellis' Camp, on the Big Pee Dee River, and bounded on all sides by the Big Pee Dee and the Little Pee Dee Rivers, is exempt from the operations and provisions of Article I of this Chapter "General Stock Law": *Provided*, That the residents of the section named shall build, and keep in good repair, a fence along the line above described running across from one of the rivers to the other; such fence to be fully five feet high at every point; if built of rails, also to be well staked and cornered, and sufficiently strong and close to protect the lands on the inside of said territory from the incursions of all the stock and animals named in the said General Stock Law, and this exemption shall not take effect till said fence is

Portion of
Marion Co.
exempted
from General
Stock Law.Civ. '02, §
1521.Provided
fences be
built.

A. D. 1912.

completed, and shall cease as soon as there is a
keep said fence up at any point: *Provided, fur*
said fence be completed on or before the first day
1896; and in case of failure to complete it by
that then this exemption shall not apply.

1887. XIX,
1060.

2. Also, all of the Great Pee Dee swamps o
side of said river in Marion County from the W
Columbia and Augusta Railroad to Dunham's Bl
same river, is exempt from the operations of A
this Chapter, entitled "General Stock Law":

Fences.

That the residents of the section named shall
keep in good repair, a fence along the margin of s
from the river at one of the points named to th
the other point named, such fence to be fully five
at every point; if built of rails, also to be we
and ridered," and sufficiently strong and close
the lands outside of said territory from the inc
all stock and animals named in the said General S
and this exemption shall not take effect till sa
completed, and shall cease as soon as there is a
keep said fence up at any point: *Provided, fur*
said fence be completed on or before the first da
ary, 1889; and in case of a failure to complete
time, that then this exemption shall not apply.

Exemption
dependent on
maintenance
of fences.1888. XX,
106.

3. Also, that part of Marion County embracin
of LeGette, Rowell, and Britton's Neck Townsh
territory is hereinafter particularly described, b
same is hereby, exempted from the operation o
of this Chapter, entitled "General Stock Law
commencing at Old Lake Landing, on Little I
thence up the run of said river to opposite B.
and opposite the line of fencing hereinafter
thence in a northwesterly direction with the existi
Terrell's Bay Church; thence westwardly with th
Friendship Church; thence southwardly with
along the eastern border of the Sand Hills
Swamp; thence in an eastwardly direction with
to Old Lake Landing at the beginning; thus havi
of Little Pee Dee River for an eastern bound
run is hereby constituted and declared to be a
sufficient fence, there being already a sufficient fe

Fencing.

A. D. 1912.

r borders: *Provided, however,* That said territory be fenced properly on all other sides except the eastern side, as aforesaid, and that when for any cause the said territory shall not be kept fenced by a lawful fence, this provision shall cease to be of force, and the said territory shall be liable to all the provisions of Article I of this Chapter in relation to the general stock law and fencing.

Failure to fence.

Also all that part of LeGette Township, in Marion County, embraced within the boundaries hereinafter described shall be exempt from the provisions, operations and effect of Article I of this Chapter, entitled "General Stock Law," viz: Beginning on Little Pee Dee River at Sandy Bluff; thence along the Sandy Bluff Road to the side fencing along Buck Swamp, so as not to include the mowing or arable lands west of the Back Swamp to Charles Leonard's, on Little Pee Dee River, below Gallivant's Ferry, including that territory known as "Little Pee Dee lands," the run of Little Pee Dee River forming the eastern boundary of the territory so exempted: *Provided, however,* That a good and lawful fence, with good and convenient gates on all public roads intersected thereby, shall be built and kept in good repair on said boundary line from Sandy Bluff to Charles Leonard's, the run of Little Pee Dee River being a sufficient lawful barrier on the eastern boundary. The foregoing being the portion of LeGette Township to be thus exempt.

Exemption from stock law in LeGette.

1891, XX, 1420.

Area of exempted section.

Fences and gates.

Also that portion of Britton's Neck Township, in Marion County, lying east of Groves' and Negro Lake Camps, is exempted from the operation and effect of Article I of this Chapter, entitled "General Stock Law": *Provided,* It be lawfully fenced and kept lawfully fenced on such sides as may adjoin any section of any County not exempted.

Exemption in Britton's Neck.

Fences.

Also, that section of Marion County included within the following described limits and boundaries is exempted from the operation of Article I of this Chapter, relating to General Stock Law and fencing stock, viz: All the territory embraced within a line beginning on Elbert Stouley's land, where it joins the Little Pee Dee Pasture; thence running across Wm. Richardson's land in a westerly direc-

1892, XXI, 308.

A. D. 1912.

Fences to be maintained.

Persons excluded.

Right to impound.

tion; then across Dr. E. L. Sweet's in same direction running the line between J. L. Gibson and Cal then crossing David Rogers's lands; then joining Pasture fence and running with it to the Gibson then crossing Gibson land and F. J. Gasque land Stouley's and Valentine Rowell's and estate land son B. Young; then running across the land Brown, W. A. Brown, J. E. Stevenson, Blake the Giles's lands, where it crosses the public road south side of Flat Swamp; then crossing Richard Davis on the side of Flat Swamp; then land of J. T. Brown on the side of Flat Swamp Swamp is reached; then running down Catfish strikes Willie Huett's land, known as the Maree across Catfish Swamp to the River Swamp Past Johnson's plantation; then connecting with Swamp Exemption down to Stewart Shaw's u then across to J. B. Davis's plantation; then Law's plantation and running round on the so Jones Swamp to the Reserve Swamp on the where the public road crosses the latter swamp across the Law land until it reaches the Bay Pa where the fence crosses the Reserve Swamp running with the Bay Pasture, which is already until it reaches the Gibson Bay field: *Provided* territory be lawfully fenced and kept lawfully fenced sides as may join any section not so exempted: *provided*, That this Section shall not apply or be any person, or as to the live stock of any person either a landowner within the above described or a contributor of his or her share towards the maintenance of the bordering fences; and the land other than landowners within said borders, or to the fences thereof in due proportion, may be and disposed of under the provisions of Article Chapter, relating to the General Stock Law stock, and the amendments thereto, with all the and penalties thereunder, as if the territory in question not exempted at all.

It shall be lawful for any party or persons in the building, repairs and maintenance of any

enclosing said territory exempted as aforesaid from the operation of Article I of this Chapter, to enter upon the adjacent lands of any person or persons whose lands are used or included by such fence, and to cut sufficient convenient timber to make rails or boards enough to build or repair, and to build and repair, said fence across the lands of such person or persons as may refuse or neglect to so build or repair said fence across his, her or their own lands from time to time, as the same may be necessary to render said fence lawful and sufficient to insure the exemption of said territory embraced from the operation of the General Stock Law as provided in this Section.

§ 2048. It shall be unlawful for any person to turn any live stock, or to cause any live stock to be turned, into any neighborhood or community pasture in Marion County exempted by special Act or Acts from the operation of the General Stock Law, except such persons be at the time the owner in fee, or for life, or for a term of years, of any land within the limits of such pasture, or be at that time a joint owner or contributor to the erection and maintenance, or to the maintenance of the fence of said pasture by the common consent of the neighborhood or community containing such pasture.

Any person who wilfully violates the provisions of this Section shall, upon conviction, be deemed guilty of a misdemeanor, and shall be subject to a fine not exceeding one hundred dollars, or to imprisonment in the County jail not exceeding thirty days.

Any live stock of any person not entitled to the privileges of such pastures under the provisions of this Section which may be found roaming within the limits of any such pasture in Marion County shall be liable to be impounded by any person lawfully interested in such pasture, and to be advertised and sold, or to be delivered to the owner of such impounded stock on the same terms and conditions and according to the provisions of Article I of this Chapter. The General Stock Law and Fencing Stock, that is to say, the territory within the limits of such pastures in Marion County shall be exempt from the operation and effect of the General Stock Law, so far as the persons lawfully interested therein according to this Section are con-

A. D. 1912:
Right to cut
timber.

Community
pastures in
Marion County.

Civ. '02, §
1522.

Stock in pas-
tures prohib-
ited.

Exceptions.

Penalties.

Right to im-
pound.

Sale.

Exemption
from stock
law defined.

Civ. '02, §
1522.

A. D. 1912.

Certain portions of Oconee County exempted from the Stock Law.

cerned, but not so exempt as to any other person whomsoever.

Sec. 2049. That portion of Oconee County bounded by J. H. Whitmire's, on Keowee River, and running thence by Whitmire's on Whitewater River, via R. D. Crow's, J. Crow's, L. Crow's and Isaac Crow's, north by a fence, is exempt from the operation of Article Chapter relating to the General Stock Law: *Provided*, That the line of fence be kept in good repair.

Also, all that portion of Oconee County, in which is hereinafter described, is exempt from the provisions of the General Stock Law, viz.: All the land embraced within the boundary of the Chatooga River on the west; the Toxaway River on the east; the North Carolina State line on the north; and a line run by J. H. Whitmire, surveyor, across said County, beginning at a point on the west side of Toxaway River, about one-half mile from the mouth of McKinney's Creek, in the lower end of Whitmire's place; thence N. 4 deg. W., a distance of two miles to Crow's Mill; thence S. 64 deg. W. one mile across Smeltzer's Creek to the Rock House Creek; thence N. 85 deg. W. across Corbin's Creek to Coward's place on the new public road from Walhalla to Sappalooc; thence S. 47 deg. W. across Alexander and Cherokee River by Jesse Lay's mill, about three and one-half miles to F. L. Moody's old mill site; thence N. 48 deg. W. one mile to Staten Cantrell's place; thence S. 64 deg. W. about five miles by way of Keith's quarter; thence N. 48 deg. W. to Lee's; thence to the Cherry place; thence to Grady's; thence to Nichol's place; thence to S. H. Davis' place; thence to W. J. Nevillè, Jr.; thence to Nicholson place, on the Cherokee River: *Provided*, That the people living above the aforesaid line, and immediately below said line, may desire to enjoy the benefits of said exemption, they may build, erect and maintain, in the manner hereinafter provided, a good, substantial and lawful rail, with a double fence along the entire distance of said line, and with a hang, and keep in repair, good and convenient, and secure fastenings, for each crossing of a public road, and line fence: *And provided, further*, That for the purpose of this Section the Chatooga River on the west, the

A. D. 1812.

ver on the east, and the North Carolina State line on the
th be, and the same are hereby, declared to be lawful
ces; and stock of any kind crossing either of said bounda-
s into the exempted territory of said County and running
large, shall be regarded as trespassing and liable to be
zed and held for forty-eight hours, subject to the pay-
nt of the costs of seizure, fifty cents each, and expenses
feeding and damages, if any; and after the lapse of forty-
ht hours such trespassing stock may be estrayed and
d as trespassing stock prescribed under the laws of this
te by the nearest Magistrate of said County, after five
ys' notice in writing of the time, place and terms of such
e, posted in three public places in the neighborhood,
ess the same shall be sooner redeemed by the owner pay-
g all charges against the same, including costs of such
a.

For the purpose of building, erecting and permanently ^{Line fence}
maintaining the line fence herein provided for, each able- ^{provided for.}
bodied male person above the age of sixteen years, living
thin the exempted portions of said County, or just below
d immediately along said line, and on lands through
ich the same is located or borders, who may desire to
re in the benefits thereof, shall be liable annually to work
ree days on said line fence, if required, under the direc-
n of the Supervisor and Overseer of his section as here-
fter provided for, or to pay annually, on or before the
teenth day of February in each year, to said Supervisor,
e sum of one dollar and fifty cents as commutation in
u thereof, to be expended by him in repairing and keep-
g up the said line fence in his section.

S. H. Davis, Lewis A. King, Jesse Lay, Jr., J. H. Wig- ^{Supervisors}
gton, and J. H. Whitmire, be, and they are hereby, desig- ^{of line fence.}
ted, created and declared the Supervisors of the said line
nce across said County herein provided for during the
rm of two years from the date of the approval of this
ction, and until their successors have been elected; whose
ty it shall be to meet, as soon as practicable, and divide,
hereinafter directed, said fence line into five convenient
ctions, and designate them by numbers, and apportion
em amongst themselves, and enroll the names of all per-
ns liable to work and assign the labor thereof, and each

A. D. 1912.

take charge of his section and overlook the same that a lawful fence, as required in this Section erected, kept in repair and maintained in the manner by the labor and means herein provided during his appointment. The Supervisors herein provide to serve for a term of two years, and until their successors shall have been elected, by a majority of those present at the public meetings of the persons liable to work in each section called for the purpose of such election, of which notice posted in writing shall be given, signed by the Supervisor, the Overseer and any of the hands of the section.

Supervisors
to appoint
overseers;
who to build
fence.

Each of said Supervisors shall appoint one or more overseers of hands for his section of said line fence, as he may deem necessary, whose duty it shall be to direct and attend all work and labor assigned him in building and maintaining his section of said fence, subject to the general control and direction of his Supervisor.

Each Overseer may appoint a warner to notify the hands of his section, him, at least twelve hours in advance of the time of meeting, for work on his section of said line fence, and also of the tool or implement that he is required to work with; and upon the failure, neglect or refusal of any person or persons liable to the same, when called to work, or to pay the commutation in lieu of work, in building or repairing and maintaining said line fence.

Trespassing
stock.

Any person or persons shall not be entitled to the benefit of exemption, but shall be required to enclose all his land in addition to his farm and crops; and if any stock of any person or persons shall be found running at large within the boundary of said exempted territory, such stock shall be subject to seizure, and held liable for fifty cents per head as compensation for seizure, and also for the cost of feeding and care of such animals, and for all damages committed by them, if any; and after forty-eight days' notice, as prescribed in this Section, unless the same shall be sooner redeemed by the payment of all charges against said stock by the owner thereof, the same shall be sold for one in his behalf.

Any person or persons who shall rescue or forcibly remove any trespassing stock, after the same has been seized,

ing held under the provisions of this Section, shall be guilty of a misdemeanor, and may be tried by any Court of competent jurisdiction in this State, and upon conviction thereof, shall be sentenced to pay a fine not exceeding the sum of one hundred dollars, or to be imprisoned in the County Jail, or to labor on the public works in said County for more than thirty days.

All owners of farms, and persons cultivating lands, situated within the exempted portions of said County, whether as owners, tenants, renters or lessees thereof, or otherwise, be, and the same are hereunder, required to enclose, and keep enclosed, their farms, fields in cultivation, and crops, with lawful fences; and any of such persons whose fields, farms and crops are not enclosed with a lawful fence, who shall kill, wound, maim, chase, worry or in any manner injure any cattle, horses, mules, goats, sheep or hogs which shall be found in any such farm or field, whether in cultivation or not, or cause or procure the same to be done by any other person, shall be deemed guilty of a misdemeanor, and, on conviction thereof, be punished by fine not exceeding one hundred dollars, or sentenced to imprisonment in the County Jail, or to labor on the public works of said County for a term not exceeding thirty days.

Sec. 2050. All that portion of Pickens County lying within the following boundaries, to wit: Commencing at the North Carolina line at the head of Big Eastatoee Creek, thence down the Big Eastatoee Creek to its mouth, thence up the Keowee River to Toxaway River, thence up Toxaway River to the North Carolina line, thence the North Carolina line to the beginning, is exempted from the operations and provisions of the General Stock Law contained in Article I of this Chapter: *Provided*, That the residents of the section named shall, at their own expense, build a good and sufficient fence along the line above described, or if already built, to keep the same in good repair, sufficient to protect the lands outside of said territory from incursions of all stock and animals named in said General Stock Law, and this exemption shall not take effect until the said fence is completed; or if already built, shall cease as soon as there is a failure to keep up said fence at any point: *Provided*, further, That good, convenient and substantial gates shall

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Rescue of
trespassing
stock a mis-
demeanor.Parties with-
in the ex-
empted terri-
tory to en-
close farms.Portion of
Pickens Coun-
ty exempt
from Stock
Law.Clv. '02, §
1524.

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be placed on all public roads crossed by this fence at the expense of the residents of the boundary herein and the penalty for having said gates open shall be the same as for leaving pasture fences down, as provided in the General Stock Law.

What is a
lawful fence?

1905. XXIV,
872; 1909,
XXVI, 44;
1910, XXVI,
638.

Sec. 2051. All fences closely and strongly made of boards, or posts and rails, or posts and wire: *Provided*, said fence is sufficiently close to prevent the ingress of swine, or of any embankment of earth capped with stone or timber of any sort, or live hedges, five feet in height, except in the Counties of Berkeley and Dorchester, where they shall be four and a half feet in height, and in Horry County, where they shall be four feet in height, from the level or surface of the earth, shall be deemed to be lawful fences; and every planter shall be required to keep such lawful fence around his cultivated grounds, except where some navigable stream or deep waterway shall be a boundary of such cultivated grounds, in which case such navigable stream or watercourse shall be deemed a sufficient fence: *Provided, always*, That before a planter incloses himself of the provisions of this Section, he shall apply to the Magistrate of the County, who shall, from the list of seven freeholders of the vicinage, draw, by lot, twelve names, who are hereby required to view the premises and report upon the sufficiency of the said water as an inclosure, according to the true intent and meaning of this Section. *And provided, further*, That this Section shall not apply to fences in Horry County, to fences constructed of wire of less height of thirty-six inches or more, and already built, or the same are constructed on the banks of, or sufficient to contain a ditch wholly or partially inclosed or surrounded by a farm or premises.

Land surrounded by a deep navigable stream is sufficiently fenced to render hunters, as well as horses, cattle and hogs, trespassers. *Hasell, 1 Strob., 178.*

Trespass by
stock.

Civ. '02, §
1526.

Sec. 2052. If any horses, mules, cattle, hogs, goats, shall break into or be found in any field containing growing or ungathered, any grain, cotton, or other valuable production, raised for market or domestic consumption, the said field being inclosed with a lawful fence, and in violation of the provisions of this Article, it shall be

owner or possessor of such field to seize such horses, mules, cattle, hogs, sheep, or goats, and impound them; under which all the provisions of the General Stock Law of this State, as to notice to owner of stock, release of same, and disposition thereof in case the owner does not obtain release, and all provisions and penalties of the same to pound breach shall apply.

Sec. 2053. If any person whose fields are not inclosed by a lawful fence shall kill, wound, maim, chase, worry, or in any manner injure any cattle, horses, hogs, sheep, or goats, which shall be found in such field, whether cultivated or not, or shall cause or procure the same to be done by any other person, such person so offending shall be liable to an action, and the plaintiff shall recover full satisfaction for the injury, with costs.

Where the general stock law is not in force, the entry of domestic animals on a railroad track is not a trespass.—*Murray v. R. R. Co.*, 10 Rich., 227.

Sec. 2054. It shall be unlawful for any person in any county or section which is exempt from the operation of the General Stock Law to plant or cultivate any crop which is not enclosed by a lawful fence, as defined in this Article.

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Seizure of
stock.

Penalty for
injuring,
chasing, etc.,
stock.

Civ. '02, §
1527.

Crops in sec-
tions not un-
der Stock Law
to be planted
within lawful
fence.

Civ. '02, §
1528.

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ARTICLE I.

COMMERCIAL FERTILIZERS.

	Sec.
2055. Fertilizers to be analysed.	2064. Certificate of chemist to be admissible as evidence.
2056. Inspectors.	2065. State may maintain suit for penalties.
2057. Chemist.	2066. Purchasers to have right to analyse.
2058. Inspection tax.	2067. Time in which samples to be analysed.
2059. Board of Trustees of Clemson College to issue tax tags.	2068. Penalty for selling fertilizer short in commercial value.
2060. Tags to be cancelled.	2069. Board to establish rules.
2061. Every bag to have a tag: grades: standard: penalty.	
2062. Copy of label to be filed.	
2063. Penalty for selling fertilizer below grade.	

Section 2055. The Board of Trustees of Clemson Agricultural College, to prevent the practice of fraud and imposition in the manufacture and sale of cotton seed meal, fertilizers and fertilizing material containing nitrogen, potash, phosphoric acid, sold or offered or exposed for sale, whether manufactured or mined within or without the State, shall cause the same to be analyzed and inspected.

Sec. 2056. The said Board of Trustees shall appoint and control one or more persons or inspectors, who shall secure for the Board samples of said fertilizers and fertilizing material and cotton seed meal under such rules and regulations as such Board may adopt, and shall cause said samples to be forwarded to Clemson Agricultural College, there to be analyzed and otherwise experimented with, and who shall perform such duties as the Board may direct.

Sec. 2057. The said Board of Trustees shall employ a chemist, with such assistants skilled in agricultural chemistry as may be necessary. It shall be the duty of said chemist to analyze said fertilizers and other materials as may be required by the said Board. He shall make regular reports to the said Board of the results of all analyses of officially drawn samples of fertilizers and fertilizing material, which shall be published in bulletins, and which shall be ready for distribution as directed by the Board.

Sec. 2058. For the purpose of defraying the expenses connected with the inspection of fertilizers and fertilizing material and cotton seed meal, sold or exposed or offered for sale in this State, and the experiments relative to the

Fertilizers to be analysed.

Inspectors.

Chemist.

Inspection tax.

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nature thereof as aforesaid, all persons, companies or corporations engaged in the manufacture or sale of or commercial manures or cotton seed meal, shall pay to the State Treasurer an inspection tax of twenty cents per ton (2,000 pounds), for such fertilizers or commercial manures, or fertilizing material or cotton seed meal exposed or offered for sale in this State, in order to expose the same to inspection and delivery; and all persons, railroad companies or common carriers are hereby prohibited from receiving or delivering and all persons are hereby prohibited from selling or exposing or offering for sale commercial fertilizers or commercial manures, or fertilizing material or cotton seed meal that do not bear the prescribed inspection tax tag or stamp, as evidence that said inspection tax has been paid to the State Treasurer or his duly appointed agents. But nothing herein contained shall interfere with fertilizers passing through the State in transit, nor shall apply to the delivery of fertilizing materials or bulk goods to fertilizer factories for manufacturing purposes: *Provided*, The said Board of Trustees shall have the discretionary power to exempt such fertilizing materials as may be deemed expedient, unless it be fertilizing material containing at least one of the constituent elements of plant food, when the law shall apply except in the case of the dung of domestic animals. Every person, company or corporation, violating this Section shall be liable to the State a sum of money equal to the price of such fertilizers, commercial manures, fertilizing material or cotton seed meal sold or exposed or offered for sale or shipped or delivered, without having the inspection tag attached, to be recovered in any court of competent jurisdiction; such forfeitures when collected shall be paid to the State Treasurer. The Treasurer shall hold the proceeds of such inspection tax and all forfeitures collected and paid in as aforesaid, subject to the order of the Board of Trustees of the Clemson Agricultural College of South Carolina.

Board of
Trustees of
Clemson Col-
lege to issue
tax tags.

Sec. 2059. The Board of Trustees of Clemson College or their agents, shall issue inspection tax tags for such person or persons, company or corporation presenting present receipts or other evidences from the State

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at they have paid into the State treasury sufficient funds to cover such issue and the said Board of Trustees or their agents shall, before making issue of tags or stamps, mark, punch or stamp each and every tag or stamp with such marks or stamps as they may adopt to show that said tags or stamps have been issued by the said Board of Trustees or their agents.

Sec. 2060. All persons, companies or corporations engaged in the manufacture or sale of fertilizers or commercial manures or cotton seed meal shall cancel all tags or stamps used as evidence that said inspection tax has been paid by stamping such tags or stamps with the name of the person or persons, company or corporation selling, shipping or manufacturing, also the date of shipment or delivery. No railroad or common carrier shall receive for shipment or delivery from any person or persons, company or corporation any fertilizers or commercial manures or cotton seed meal with the tags or stamps bearing date of cancellation less than thirty or more days prior to delivery for shipment.

Sec. 2061. Every bag, barrel or other package of such fertilizers or commercial manures as above designated, offered or exposed for sale or delivered after sale in this State, shall have thereon a plainly printed label or stamp in the letters and figures of which shall not be less than one inch in length, which shall truly set forth the name, location and trade-mark of the manufacturer, the number of pounds weight in such bag, barrel or package, also the chemical composition of the contents of said package and the minimum percentage only of any of the following ingredients guaranteed to be present, to wit: available phosphoric acid, nitrogen and its equivalent ammonia, and potash soluble in water; and on the opposite side or end, in the case may be, of every such bag, barrel or other package, there shall be another plainly printed label or stamp with a brand in Roman letters, the letters to be not less than one inch in length, giving the grade of each such package, according to the following schedule, that is to say, each package to be labelled "High Grade," "Low Grade," "Standard," according to the following classifications:

High Grade.—The following analysis guaranteed by the manufacturer to be branded High Grade: Dissolved bone or

Tags to be cancelled.

Every bag to have a tag

Grades.

High grade.

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Low grade.

Standard.

acid phosphate without potash, guaranteed to contain twelve per cent. or over of available phosphoric acid; acid phosphate containing potash guaranteed to contain twelve per cent. or over of available phosphoric acid with one per cent. of ammonia; ammoniated goods guaranteed to contain eight per cent. or over of available phosphoric acid; three per cent. of ammonia, and two per cent. or over of potash.

Grade.—The following analysis guaranteed by manufacturer to be branded Low Grade: Dissolved bone phosphate without potash, guaranteed to contain twelve per cent. of available phosphoric acid; acid phosphate containing potash guaranteed to contain eleven per cent. of available phosphoric acid with one per cent. of potash; ammoniated goods guaranteed to contain less than eight per cent. of phosphoric acid, two and one-half per cent. of ammonia and one per cent. of potash.

Standard.—The following analysis to be guaranteed by manufacturer to be branded Standard: Dissolved bone acid phosphate without potash guaranteed to contain twelve per cent. of available phosphoric acid; acid phosphate containing potash guaranteed to contain eleven per cent. of phosphoric acid with one per cent. of ammonia; ammoniated goods guaranteed to contain eight per cent. of phosphoric acid, two and one-half per cent. of ammonia and one per cent. of potash. The classifications of goods shall be as follows: "High Grade," guaranteed to contain six and five-eighths per cent. nitrogen, equivalent to eight per cent. ammonia, two per cent. of available phosphoric acid, one and one-fourth per cent. of potash. Standard Grade: guaranteed to contain five and seventy-six hundredths per cent. nitrogen, equivalent to seven per cent. ammonia, one-half per cent. available phosphoric acid and one per cent. of potash. Low Grade: Anything below Standard Grade branded Low Grade: *Provided*, Any manufacturer shall have the right to brand the grade of goods manufactured in either grade where the guaranteed analysis shows the elements are of the same or equal commercial value as stated in the foregoing schedule: *Provided*, the said Board shall have the power to direct in which place the branding or labelling shall be done in such cases as in their opinion the printing or branding upon the

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er package would not prove durable or legible, such as
 ton seed meal. Any such fertilizers as shall be ascertained
 analysis not to contain the ingredients and percentage
 forth as above provided, shall be liable to seizure and
 demnation, and when condemned shall be sold by the said
 ard of Trustees for the exclusive use and benefit of the
 d Clemson Agricultural College. Whoever shall sell, or
 ose, or offer, or receive for sale or delivery after sale
 y commercial fertilizer or cotton seed meal without hav-
 such labels or stamps as in this Article provided, attached
 reto, shall be liable to a penalty of three dollars for each
 arate bag or barrel or package sold, or offered, or
 posed, or received for sale, to be sued for before any
 rt and recovered by due process of law at the suit of
 State; the amount so recovered, after paying costs,
 ll go to the use and benefit of said college, as aforesaid.

ec. 2062. Every person or corporation engaged in the
 manufacture and sale of fertilizers or commercial manures
 cotton seed meal in this State, or any person or corpora-
 a offering the same for sale, shall, on or before the first
 of November of each year file with the Board of Trus-
 of the Clemson Agricultural College of South Carolina,
 true and correct copy of the printed label or stamp
 uired by the preceding Section to be printed on each and
 y bag, barrel or package of such fertilizer or commercial
 ure or cotton seed meal, of the various brands which
 said person or corporation proposes to offer for sale
 in the State during the next succeeding twelve months;
 a certificate showing the source from which the phos-
 ric acid, ammonia and potash guaranteed in each of said
 nds of fertilizers or commercial manures or cotton seed
 al so offered for sale is derived, and also the commercial
 ue of each and every ingredient contained in said fertilizer
 commercial manure or cotton seed meal, to be ascertained
 hereinafter provided; and that no fertilizer or commercial
 ure or cotton seed meal under any name or brand or
 ne whatever shall be offered or exposed for sale within
 State until the foregoing terms shall be complied with:
 rovided, however, That nothing herein contained shall
 vent any person or corporation from subsequently apply-
 to and obtaining the consent of the Board of Trustees

Penalty for
 sale without
 ing.

Copy of la-
 bel to be filed.

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to offer any other brand of fertilizer or commercial or cotton seed meal upon complying with all requirements hereinbefore contained. That on or before the first day of October of each year, the said Board of Trustees of the Clemson Agricultural College of South Carolina shall publish the commercial value per pound and per bushel of the various ingredients of a complete fertilizer, viz: nitrogen, phosphoric acid, nitrogen and its equivalent and potash soluble in water, and furnish the same to any person or corporation interested in the manufacture of commercial fertilizers and commercial manures or cotton seed meal in this State, upon application thereof. The said valuation so ascertained shall be the guide to any party selling fertilizers or commercial manures or cotton seed meal shall be governed in estimating the value thereof as hereinbefore required.

Penalty for
selling fertil-
izer below
grade.

Sec. 2063. Any person or corporation who offers or exposes for sale any fertilizer, commercial or cotton seed meal which shall, upon analysis, fall below the commercial value of said fertilizer, commercial manure or cotton seed meal, certified to by the Board of Trustees of the Clemson Agricultural College of South Carolina, provided by Section 2062, shall be liable to a penalty of three times the amount of deficiency in commercial value of the entire lot or shipment, which said value as to the entire lot or shipment shall be deemed and taken to be the value thereof as proven that which may be determined by analysis of samples taken as provided in this Chapter from the lot or shipment; or which shall fall below the weight specified on such bag, barrel, package or tag, shall be liable to a penalty of three dollars for each separate bag or barrel sold or exposed or offered for sale. The weight of the fertilizer or cotton seed meal shall be ascertained at the time of delivery to the purchaser in the presence of two disinterested witnesses, one chosen by the purchaser and the other by the seller, and the purchaser shall, within ten days thereafter, notify the seller to make good the deficiency, and upon failure of the seller to do so within twenty days thereafter, the penalties provided for in this section of the Article shall immediately attach and shall be recoverable by the State, one-half of the penalty

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ed to be paid to the purchaser in case of a sale: *Provided*, any such seller shall refuse, decline or neglect to choose witness as herein provided, after having been notified or requested by the purchaser so to do, then he or they shall have forfeited their right to do so, and the purchaser shall select two witnesses, who shall select a third, who shall proceed to ascertain said weights.

Sec. 2064. The sworn certificate of the chemist of the Clemson Agricultural College of South Carolina of analysis of the various brands of fertilizers and commercial manures of cotton seed meal shall be received in any suit, in any and all courts of this State, as *prima facie* evidence of the analysis and commercial value of the fertilizers or cotton seed meal so analyzed. Certificate of chemist to be admissible as evidence.

Sec. 2065. The State may maintain an action in any court of competent jurisdiction against the vendor or owner of any fertilizer, fertilizing material or cotton seed meal sold in this State, or offered or exposed for sale in this State, or shipped or transported within or into the State in violation of law, to recover the fines and penalties due for the illegal sale, shipment or transportation thereof, regardless of the domicile or place of residence of such vendors or vendors, and shall have a lien upon said fertilizers, fertilizing material and cotton seed meal, as well as upon any and all other fertilizers, fertilizing material and cotton seed meal to be found within the State belonging to the offending party or parties, to secure the payment of said fines or penalties and costs and expenses of such action, which lien shall be enforced by attachment of said fertilizers, fertilizing material and cotton seed meal under a writ of attachment to be issued in accordance with the practice prescribed in Chapter IV, Title 7, Part 2, Code of Civil Procedure, Vol. II, Code of Laws of South Carolina, 1902, except that no security, as required of other plaintiffs by Section 25, Code of Civil Procedure, need be given by the State in such action. That any seller of commercial fertilizers manufactured beyond this State, shall be taken and deemed to be an agent of the manufacturer of said fertilizer for the purpose of the service of process and of such papers as may be necessary in the commencement of any action or suit in any court of competent State may maintain suit for penalties.

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jurisdiction authorized under this Act: *And further*, That if there be judgment in favor of the plaintiff in such action, and the fertilizer, material and cotton seed meal be ordered sold in satisfaction to satisfy said judgment, and inspection in the direction of the Board of Trustees of Clemson Agricultural College, prior to said sale, draw proper samples of fertilizers, fertilizing material and cotton seed meal, cause the same to be analyzed by the chemist of said college, and shall affix to the packages thereof the inspection and brand a statement of the result of such analysis on each package, as required by this Article; so that the purchaser at the Sheriff's or Constable's sale may purchase said fertilizer, fertilizing material and cotton seed meal under a full guaranteed analysis, as provided by

Purchasers
to have right
to analyze.

Sec. 2066. Any citizen of this State who shall purchase any commercial fertilizers or manures or cotton seed meal shall have the right to have the same analyzed at the Clemson Agricultural and Mechanical College, by drawing a sample of same from at least ten per cent. of such material within fifteen days from date of delivery, in the presence of at least two disinterested witnesses, one to be chosen by the purchaser, and one by the seller, who shall certify that the sample was taken from such fertilizers or manures or cotton seed meal, which certificate, with the sample, shall be forwarded by a third disinterested party in the presence of the witnesses, and directed to Clemson Agricultural and Mechanical College. If any seller or vender or manufacturer of fertilizers or commercial manures or cotton seed meal refuse, decline or neglect to choose a witness as provided in this Section, after having been notified or requested to do so six days before by the purchaser, then he or she shall have forfeited their right so to do, and the purchaser may select two disinterested witnesses, who shall select a third witness, who shall proceed to take samples as hereinafter provided: *Provided*. That when a purchase does not exceed fifty sacks, a sample shall be taken from at least one sack. All samples of fertilizers or cotton seed meal drawn under the provisions of this Section shall be subject to the same rules as may be prescribed by the Board of Trustees of the Clemson Agricultural and Mechanical College.

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son College not inconsistent with the provisions of Chapter.

c. 2067. That said college shall have the said sample ^{Time is} samples analyzed free of cost and within forty (40) days, ^{which sam-} as soon thereafter as practicable after receiving the ^{ples to be} ^{analyzed.} sole or samples, supply the purchasers and sellers of such fertilizers or manures or cotton seed meal with a sworn certificate, giving the per cent. of the different fertilizer ingredients, signed by the chemist of said college.

c. 2068. That any vender of commercial fertilizers, ^{Penalty for} ^{selling ferti-} ^{lizers short} ^{in commercial} ^{value.} manures or cotton seed meal whose goods or wares shall fall short in commercial value guaranteed by the analysis appearing on sack, tag or vessel holding the same when delivered to the purchaser, shall be liable to the purchaser the same per centum, and selling price as the goods have fallen short in per centum of the commercial value as determined upon analysis made of the goods: *Provided*, That if the fertilizer, fertilizing material falls short ten per cent. of the commercial value guaranteed by the analysis appearing on the sack, tag or vessel holding the same when delivered to the purchaser, that then the seller shall be liable to the purchaser for one-third of the selling value thereof, such amount is to be deducted from the amount of the seller's indebtedness; and if the buyer has paid for the said goods, then the buyer can collect the same from the seller through the process of law: *Provided, further*, That if any of the ingredients constituting any brand of fertilizer or fertilizing material or cotton seed meal sold in this State falls short of the guaranteed analysis appearing on the sack, tag or vessel holding the same, as follows: In available phosphoric acid, thirty points (which shall mean three-tenths of one unit) on goods guaranteed up to ten per cent.; forty points (which shall mean four-tenths of one unit) on goods guaranteed over ten per cent. of available phosphoric acid; ammonia, or potash, as follows: Fifteen points (which shall mean 15-100 of one unit) on goods guaranteed up to one and one-half (11-2) per cent. inclusive; ten per cent. on the ingredients on goods guaranteed above one and one-half (11-2) per cent. up to and including three per cent. inclusive: thirty-five points (which shall mean thirty-five one hundredths (35-100) of one unit) on goods guaranteed four

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per cent.; forty points (which shall mean four one unit) on goods guaranteed above four per cent. up to and including eight per cent.; fifty points guaranteed over eight per cent.; that then the manufacturer or seller shall be liable to the purchaser for four times the commercial value of the entire deficiency in available phosphoric acid or potash, as found by analysis, and the commercial value of the entire deficiency in available nitrogen, as found upon analyses of the goods, to be deducted from the buyer's indebtedness, and if the buyer has paid for the goods, then the buyer can collect the same from the manufacturer or manufacturer by due process of law. The penalty provided for shall apply to each ingredient, regardless of the amount that may fall short as herein provided: *And further*, That the seller of any fertilizer or fertilizing material falling short of the per cent. of ingredient guaranteed, the same may be billed or charged, shall be subject to a penalty of at least three times the value of such deficiency thereof to be recovered in any court of competent jurisdiction by the purchaser, but this proviso shall not apply to manufactured or manipulated goods, known as cotton seed fertilizers, or to cotton seed meal.

Board to
establish
rules.

Sec. 2069. That the Board of Trustees of the State shall have authority to establish such rules and regulations in regard to the registration, inspection, sale and use of acid phosphate or other fertilizing material sold to persons, individuals or firms, who desire to use same as provided in this Act as shall not be inconsistent with the provisions of the law in reference to the analysis of fertilizers or fertilizing materials and the judgment will best carry out the provisions of said law.

ARTICLE II.

COTTON.

Sec.

2070. Cotton; tare on prohibited except for bagging and ties.

2071. Rates of storage prescribed; forfeiture for excessive charge.

2072. Regulations as to cotton; hours of sale; hours kept.

2073. Record of balances bought to be kept.

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4. Ginners to keep books for public inspection.
5. Minimum size of merchantable bales.
6. License required for traffic in Sea Island Cotton.
7. Regulations for traffic in seed cotton in portion of Marion County.
8. When Public Cotton Weighers may be elected.
9. Oath, bond and compensation of Public Cotton Weighers.
10. Duties of.
11. Certain Counties excepted from Sections 2079 and 2080.
12. Special provisions as to Cotton Weigher in Horry Path.
13. Special provisions as to Cotton Weigher in Pickens and Oconee.
14. Special provisions as to Pickens County.
15. Special provisions as to Cotton Weigher in Lancaster County.

Sec.

2086. Cotton Weighers for Chesterfield County.
2087. Cotton Weighers for Swansea.
2088. Cotton platforms to be erected in Richland County.
2089. Cotton Weighers for Chester and Richland Counties.
2090. Cotton Weigher for Town of Kershaw.
2091. Cotton Weigher for Kershaw County.
2092. Cotton Weighers at Lodges, Smoaks and Walterboro, in Colleton County.
2093. Cotton Weigher for Lamar, Darlington County.
2094. Cotton Weighers in Dorchester County.
2095. Cotton Weigher at Batesburg, in Lexington County.
2096. Cotton Weighers for Sumter County.
2097. Election of Cotton Weigher in Williamsburg County.

Section 2070. The custom of making a deduction from actual weight of bales of unmanufactured cotton as an allowance for breakage or draft thereon is abolished; and contracts made in relation to such cotton shall be deemed and taken as referring to the true and actual weight thereof without deduction; and no tare shall be deducted from the weight of such bales of cotton except the actual weight of the bagging and ties used in baling said cotton; and whenever it shall be agreed between the buyer and seller to deduct tare on cotton bales it shall be as follows: For bales of cotton covered with seven yards of standard cotton bagging and six iron ties the actual tare shall be, and is hereby, fixed at sixteen pounds, and for bales of cotton covered with seven yards of standard jute bagging and six iron ties the actual tare shall be, and is hereby, fixed at twenty-four pounds; and when buyer and seller agree to sell net weight, and when bales of cotton are covered with seven yards of standard cotton bagging and six iron ties, the actual tare shall be, and is hereby, fixed at sixteen pounds, and when bales of cotton are covered with seven

Tare on cotton prohibited.

Civ. '02, § 1548.

Except for bagging and ties.

Weight for tare prescribed.

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Rates of
storage.Civ. '02, §
1544.Regulation as
to sale of seed
cotton and un-
packed lint
cotton.Civ. '02, §
1545.Books to be
kept.

Always open.

Cotton buy-
ers required
to keep a
book.Civ. '02, §
1546.Number on
bale and book
must be same.Open to in-
spection.Cotton bales
weighing not
less than 800
pounds made
merchantable1899, XXIII.
90.

yards of standard jute bagging and six iron ties
tare shall be, and is hereby, fixed at twenty-four

Sec. 2071. The rates of storage of cotton shall
be twelve and one-half cents per week for each bale
and the charges for weighing cotton shall not exceed
for each bale; and any person violating the provisions
of this Section, or either of them, shall forfeit to the
owner of the cotton ten dollars for each offence, which may be
recovered by him in any Court of competent jurisdiction in this
State.

Prohibits the making, not the paying, of a greater charge.
Frost, 26 S. C., 200; 2 S. E., 16.

Sec. 2072. It shall not be lawful for any person
to buy, or sell, or receive by way of barter, exchange, or
otherwise, any sort, any seed cotton between the hours of sunrise
and sunset.

All persons engaged in the traffic in seed
cotton or unpacked lint cotton are required to keep legible
records in a book, which shall be open to public inspection.
The name and place of residence of the person or persons
to whom they purchase or receive by way of barter, exchange,
or traffic of any sort, any seed cotton or unpacked lint
cotton, with the number of pounds and date of purchase.

Any person to whom license as provided in Section 2071
to traffic in seed cotton may be granted shall keep in his
place of business a book in which shall be entered
the name of every person from whom purchased and the date
of purchase, which book shall always be open to inspection
of persons applying therefor.

Sec. 2073. Each and every cotton buyer in
this State buying from the initial seller shall be required
to keep a book in which shall be inserted the number of
bales of cotton bought by him. He shall number the bales
of cotton bought by him, the name of those from whom he
purchased and shall give to the seller a cotton bill, on which
shall be put the number of the bale or bales of cotton bought
by him. The number on the bale of cotton on his bill
shall be the same number.

Such books of all cotton buyers shall be open to
inspection.

Sec. 2074. Every person who runs a public gin, shall keep a book in which shall be entered a full account of all the cotton brought thereto, with the date and the name of the person bringing it, which book shall be open to inspection by the public.

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Sec. 2075. It shall be unlawful for any cotton buyer to refuse to accept any bale of cotton, after he has bought the same by sample thereof, weighing over three hundred pounds, provided same corresponds in quality with sample bought by.

Civ. '02
1547.

Sec. 2076. The County Treasurer of any County is authorized and directed to annually issue a license to traffic in long cotton, known as sea island cotton, in the seed, by purchase, barter or exchange, within the limits of one particular Township only in said County, and within the period beginning the first day of August and ending the thirty-first day of December of each year, to any and every person who shall file with said County Treasurer a written application therefor, stating the Township of said County wherein and the particular place in such Township whereat such person desires to traffic and do business (the granting of which license must be recommended by the Board of Township Commissioners of such Township). Such license shall specify the Township wherein and the particular place in such Township whereat, as well as the period aforesaid in which such person is permitted so to traffic and do business; and for every such license, if granted, and before the issuing of the same, a fee of fifty dollars shall be paid by every such person to the County Treasurer; and all of such license fees shall be held by him, the said Treasurer, subject to the orders of the Chairmen of the Boards of Township Commissioners in said County, respectively, and the County supervisor, who shall apply and use the same to and for the enforcement of the provisions hereof, and to and for the repairing of the roads and bridges in the several Townships, respectively, and for no other purpose. And traffic in long cotton, known as sea island cotton, in the seed, by purchase, barter or exchange, without such license, is absolutely prohibited; and any person who shall so traffic or attempt to traffic without such a license shall be guilty of a misdemeanor, and on conviction shall be punished for each

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A. D. 1912.

offence by a fine of not more than one hundred dollars or imprisonment not exceeding thirty days: *Provided*, That one-half of any such fine when collected shall be paid to the informer: *Provided*, The provisions of this Section shall apply to the Counties of Colleton, Beaufort and Currituck except within the Township of James Island.

Special regulations traffic in seed cotton in portion of Marion County.

Civ. '02, § 1651.

Sec. 2077. All persons residing in that portion of the County south of a line parallel to and exactly one mile from the Wilmington, Columbia and Augusta Railroad, engaged in purchase, barter or exchange in seed cotton, shall on every Saturday night post up in front of their place of business where seed cotton is purchased, bartered or exchanged the amount of cotton purchased, bartered or exchanged during the week and the name or names of the parties from whom the purchase or purchases were made, and the amount purchased and to keep said record for a period of three months: *Provided*, That no person shall sell or dispose of any seed cotton within the limits above described before the hour of five o'clock in the afternoon and before eight o'clock in the forenoon.

When public cotton weighers may be elected.

Sec. 2078. Upon the petition of fifty or more qualified electors, who are growers of cotton, and who reside within five miles of any place in which there may be a cotton market, the County Board of Commissioners of that County shall annually elect one or more public cotton weighers for the cotton markets, whose term of office shall be for one year and until the election and qualification of his or her successor or successors. All cotton weighers in the County of Greenwood, appointed as provided by this Section, shall receive as compensation for their services ten (10) cents per bale for each bale of cotton weighed by them, one-half (1/2) to be paid by the seller and one-half (1/2) by the buyer: *Provided, however*, That there shall be one Public Cotton Weigher at Bishopville, Lee County, who shall receive five cents per bale for weighing cotton, five cents to the buyer and five cents by the seller, and who shall be bonded with good and sufficient surety, to be approved by the County Auditor, in the sum of one thousand (\$1,000.00) dollars, conditioned for the faithful performance of his duties.

Sec. 2079. Before entering upon the duties of the office, each Cotton Weigher shall be legally sworn to discharge

A. D. 1912.

ties of the position, by some officer authorized to administer oaths, and shall enter into bond in the sum of three hundred dollars for the faithful performance of his duty, which bond shall be approved by the County Board of Commissioners, and filed with the Clerk of the Court of Common Pleas and General Sessions for the County in which said cotton market or markets may be situated. Each weigher shall receive as compensation for his services not more than ten cents for each bale weighed by him, to be paid by the Commissioners, the same to be paid in equal proportion by the seller and buyer, except in those markets where the Weigher may be paid by individuals or corporations, at which markets the seller shall pay nothing.

Cotton Weighers to take oath and give bond; compensation of.

Sec. 2080. It shall be the duty of each Weigher to provide a platform and scales with ample facilities for handling cotton with speed and at minimum cost, at which platform and scales all cotton sold in said market or markets shall be weighed. It shall be the duty of each Weigher to weigh fairly and promptly all cotton sold in said market or markets, issuing his own ticket, showing the weight of each bale or package of cotton weighed. It shall be his further duty to adjust any difference between sellers and buyers as to moisture and mixed or false packing. In case of inability from sickness or other cause, and from the first day of March to the first day of September of each year, a Weigher may appoint a Deputy, who shall take, before entering upon his duties, the usual oath of the office in the manner required of the Weigher. The elected Weigher shall be responsible on his bond for the official acts of his Deputy. Each Weigher or his Deputy shall devote his exclusive attention to the duties of his office during the cotton marketing season. Each Weigher shall test his scales once a month by the standards in the office of the Clerk of the Court, as provided by law: *Provided*, That the County Board of Commissioners may, for good and sufficient cause shown, remove any such Public Cotton Weigher from his office, after first giving such Weigher at least ten days' notice to show cause why he should not be removed; and shall have power to fill any vacancy occurring in the office of Public Cotton Weigher, at the first regular meeting of the said Board after such vacancy occurs: *Provided*, That

Duties of Weigher.

Removal from office.

CIVIL CODE

Nothing herein contained shall apply to sales made on plantations or at cotton mills.

Sec. 2081. The provisions of Sections 2079 and 2080 shall not apply to sales made on plantations or cotton mills, nor to the Counties of Charleston, Georgetown, Laurens, Berkeley, Darlington, except at Lamar, Spartanburg, Aiken, Horry, Georgetown, Richland, Beaufort, Lancaster, Abbeville, York, Newberry, Oconee, nor to the town of Liberty, in Pickens County or to Anderson Township in Anderson County: *And further,* The Mayor or Intendant of an incorporated city in Greenwood County, upon petition of twenty-five freeholders who live in a radius of five miles, and who are freeholders, shall order an election to be held on the first Saturday in August of each year for cotton weigher, and he shall order the candidate receiving the highest number of votes to be elected Weigher for one year from day of said election. All farmers who sell cotton at said depot shall be qualified to vote, provided they reside in Greenwood County: *And provided,* That in the County of Edgefield for each year a Weigher, his term of office shall be for two years commencing at the date of his election, and until his successor shall be elected: *And provided, further,* That in the County of Sumter the provisions of this Section shall apply to cotton sold or stored in warehouses: *Provided, further,* The provisions of said Section shall apply to the city of Sumter as follows: Three public weighers shall be elected by the City of Sumter by the County Board of Commissioners, of whom shall be recommended by the City Council. Their term of office shall be one for a term of two years, one for a term of three years and one for a term of four years, to be determined by lot: *Provided,* That no person shall be voted for or elected a cotton weigher who is not within the sixth (6th) degree by blood or marriage to any of the County Board of Commissioners. The cotton weigher shall be required to mark and number each bale of cotton as indicated by tags of buyers and keep the tags of each buyer together in order to facilitate prompt payment. No cotton shall be allowed to remain on the premises more than five days except upon being subject to a charge of one per cent. per bale per day: and cotton left on premises

A. D. 1912.

or any time to be at the owner's risk. The platform for Cotton Weighers shall be furnished by the County and shall have a capacity of 5,000 bales, and the scales on said platform shall be approachable from at least two sides. The Weighers, as aforesaid, shall render to the County Commissioners a monthly statement of all the cotton weighed, and shall pay to the County Treasurer one cent per bale for all cotton weighed by them, for the use of the platform: *Provided, further*, The Mayor or Intendant of an incorporated town in Greenwood County upon petition of twenty-five farmers who live in a radius of five miles, and who are freeholders, shall order an election to be held on the first Saturday in August of each year for cotton weigher, and he shall declare the candidate receiving the highest number of qualified electors, Weigher for one year from day of said election. All farmers who sell cotton at said depot shall be allowed to vote, provided they reside in Greenwood County: *Provided*, That in the County of Edgefield for each Cotton Weigher his term of office shall be for two years, from the date of his election and until his successor shall have qualified: *And provided, further*, That in the County of Edgefield the provisions of this Section shall apply to all cotton sold or stored in warehouses.

Sec. 2082. Upon the petition of twenty-five, or more, ^{Special provisions for the Town of Honea Path.} qualified electors, who are growers and buyers of cotton, or cotton growers or cotton buyers, resident within five miles of ^{Civ. '02. § 1556.} Honea Path, the Town Council of said town shall, within thirty days after the receipt of said petition, provide for and annually conduct an election, and in the usual manner of elections in said town, for a Public Cotton Weigher for said town, whose term of office shall be for one year, and until the election and qualification of his successor. At such election all and only cotton growers and cotton buyers who are qualified electors and reside within a radius of five miles of the depot in said town, shall be entitled to vote; the said Town Council shall declare the result of said election, and the person receiving the highest number of votes shall be the Public Cotton Weigher for said town, and he shall receive as compensation for his services not exceeding five cents per bale for every bale of cotton weighed, one-half to be paid by the buyer and one-half by the seller; such

A. D. 1901

for each bale weighed by him, the same to be paid in equal proportions by the buyer and seller.

It shall be the duty of the said Cotton Weigher to provide ^{Duties} scales and ample facilities for handling cotton sold and ^{weighers.} weighed. It shall be the duty of the said Weigher to weigh all cotton brought to his town for sale fairly and promptly, issuing a ticket therefor, which shall show the weight of each bale. It shall be his further duty to adjust any differences between buyers and sellers as to moisture, mixture or false packing. In case of disability, by sickness or other cause, the said Weigher may appoint temporarily a deputy, who shall take the usual oath of office before a Magistrate previous to entering upon his duty.

When any false weighing or omission of duty on the part ^{Liability} of any one of said Weighers occurs, whereby either buyer ^{weighers.} or seller suffer loss or is injured, such Weigher and his bondsmen shall be held liable to the extent of such loss or injury.

This Section shall not apply to purchasers or weighers of ^{Exceptions} cotton for the Easley Cotton Mills, in the town of Easley, ^{1900, XXI} nor to purchasers or weighers of cotton for the Pickens ^{551.} mills, in the town of Pickens, nor to the purchasers or ^{1903, XXI} weighers of cotton for the Glenwood Mills in Easley, and ¹⁷⁷ the Liberty Mills in Liberty.

Sec. 2084. There shall be annually elected by the qualified electors, resident within the County of Pickens, a ^{Special p} Public Cotton Weigher, who shall have an office in the ^{vision as} town of Pickens, in said County. Such Weigher shall be ^{the election} sworn to discharge the duties of the position by some officer ^{Cotton Weigh} authorized to administer an oath. The election of such ^{ers in Pick} Weigher shall be on the third Saturday in August, 1905, ^{County.} the polls to open at 10 a. m. and close at 5 p. m., and on the ^{1906, XX} third Saturday in August each year thereafter. The Town ^{138; 190} Council of the town of Pickens shall appoint three men as ^{XXV, 62} managers of said election, and shall give notice of the time ^{1908, XX} and place of holding the same, at least ten days before the ¹²⁰² day of said election. ^{Civil Co} ^{§ 2083, amended.}

The said Weigher shall enter into bond to the said Town ^{Bond} Council in the sum of three hundred dollars for the faithful ^{Weigher.} performance of his duties, which bond shall be approved by and filed with the said Town Council; and said Weigher

A. D. 1912.

Duty
Weigher.

shall receive as compensation for his services one cent per bale for each bale weighed by him, the same to be paid in equal proportions by the buyer and seller.

It shall be the duty of the said Cotton Weigher to provide scales and ample facilities for handling and weighing cotton and to weigh all cotton brought to the said town for sale and promptly, issuing a ticket therefor, which shall show the weight of each bale. It shall be his further duty to adjust any differences between buyers and sellers for moisture, mixture or false packing. In case of absence by sickness or other cause, the said Weigher may appoint temporarily a deputy, who shall take the usual oath before a Magistrate previous to entering upon his duty. When any false weighing or omission of duty on the part of said Weigher occurs, whereby either buyer or seller suffers loss or is injured, such Weigher and his deputy shall be held liable to the extent of such loss. For the purposes of this Section, "qualified electors" shall include all male citizens who are patrons of the cotton market, resident within the County of Pickens. They shall, on or before the third day before the day of such election, upon the production of his registration certificate, procure from the Clerk of the Town of the town of Pickens an additional certificate of being a duly qualified elector, under the laws governing elections in the State of South Carolina, and be entitled to vote in the annual election for Cotton Weigher. The Clerk shall advertise, by posting notices in three public places in the County, or otherwise, and for at least ten days before such election, the time and place of such election. Additional certificates may be procured, and shall be issued, and issue such certificates to such persons as may apply thereto under the provisions of this Section, and he shall be the judge of all necessary compliance with the qualifications: *Provided*, The said Clerk shall close the election books for such election at six o'clock on the day next preceding such election, and deliver to the Clerk of such election, forthwith, a certified list of the names of all persons to whom he shall have issued such certificates, and such certified list shall be used by the said

Qualified vot-
ers.Notice of
election.

A. D. 1912.

the poll list in such election. The person receiving the highest number of votes cast in such election shall be the Cotton Weigher for the said town, and his term of office shall be for one year, and until the election and qualification of his successor: *Provided*, That this Section shall not apply to purchasers or weighers of cotton for the Pickens Cotton Mill.

The provisions of this Section shall be applied and be of force in and to Central, South Carolina, as to the election, in such manner, the powers, duties, term of office and compensation of Cotton Weigher at and for Central: *Provided*, The provisions hereof shall not apply to cotton weighers for, or purchasers of cotton for cotton mills located in the town of Central.

Sec. 2085. The County Commissioners of Lancaster County are authorized and directed to order elections to be held in the towns of Lancaster, Heath Springs, and Kershaw, in Lancaster County, on the second Tuesday in August, 1899, and every two years thereafter, for the purpose of electing a Public Cotton Weigher for each of said towns, respectively; and said Commissioners shall make such rules and regulations for the government of such elections as to them shall seem proper; they shall also fix the compensation to be received by each of said Cotton Weighers, said compensation not to exceed five cents per bale for each bale of cotton weighed by any one of them. Said Commissioners shall canvass the votes polled at said elections, declare said elections, and issue a commission to the person declared elected: *Provided*, That no person elected Public Cotton Weigher under the provisions of this Section shall receive a commission to enter upon the discharge of his duties as such Public Cotton Weigher until he has entered into a good and sufficient bond, with two or more sureties, in the sum of one thousand dollars, payable to said commissioners, and conditioned for the faithful performance of his duties as such Cotton Weigher, said bond to be approved by said Commissioners. Any other person than a duly elected and commissioned Cotton Weigher, charging or receiving any sum or sums of money or other valuable consideration for weighing cotton in said County of Lancaster, shall be guilty of a misdemeanor, and upon conviction

Cotton
Weigher for
Central, in
Pickens Co.

Election for
Cotton Weigh-
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ter, Heath
Springs and
Kershaw, in
Lancaster Co.

Civ. '02. §
1558.

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votes shall be declared elected Cotton Weigher as herein provided. In the event that no candidate offers in such election for said office, the Town Council shall fill the office by appointment, or shall have power to make such arrangements for the weighing of cotton in such towns, in such manner as said Council may deem best: *Provided*, That the Cotton Weigher for the town of Cheraw shall be elected as follows: Upon the petition of fifty or more qualified electors, who are growers of cotton and who reside within six miles of the town of Cheraw, the County Board of Commissioners of Chesterfield County shall elect one Cotton Weigher for the cotton market, whose term of office shall be two years or until the election and qualification of his successor, said Cotton Weigher to enter into bond as required in this Section for other Cotton Weighers: *Provided*, That any qualified elector not residing within the radius of five miles of the depot where cotton is marketed shall have the right to vote at the nearest voting precinct held for such Cotton Weighers.

Sec. 2087. Upon the petition of twenty-five or more qualified electors, who are growers and buyers of cotton, cotton growers or cotton buyers, resident within five miles of Swansea, the Town Council of said town shall, within thirty days after the receipt of said petition, provide for a biennial election, and in the usual manner of elections in said town, for a Public Cotton Weigher for said town, whose term of office shall be for two years or until the election and qualification of his successor. At such election all, and only cotton growers and cotton buyers who are qualified electors and reside within a radius of five miles of the depot in said town, shall be entitled to vote; the said Town Council shall declare the result of the election, and the person receiving the highest number of votes shall be the Public Cotton Weigher for said town; he shall receive as compensation for his services not exceeding ten cents per bale for every bale of cotton weighed, one-half to be paid by the buyer and one-half by the seller. Such Weigher shall finally adjust and settle all differences or disputes between buyers and sellers as to proper deduction to be allowed from water, dampness, damaged cotton, or any false packing; and the said Weigher

Cotton
Weigher for
Swansea.

1909, XXV,
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A. D. 1912.

shall test the scales every morning before cotton, so as to insure accuracy. In case of sickness or other cause, the said Weigher or deputy, who shall take, before entering upon his usual oath of office in the manner required of him. Before entering upon the duties of his office the Weigher shall be legally sworn to discharge his position by the Intendant of the town of Swanton. He shall enter into bond in the sum of three hundred dollars for the faithful performance of his duty, which shall be approved by the Town Council of Swanton with the Clerk of the Court of Common Pleas of Richland County. The elected Weigher shall be bound by his bond for the official acts of his deputy.

Cotton platform to be erected in Richland Co.

Sec. 2088. The County Board of Commissioners of Richland County shall forthwith, out of such funds as may be available, cause to be erected and before the first of July, A. D. 1909, completed a public cotton platform adequate to hold not less than three thousand (3,000) bales of cotton, said platform to have a substantial roof and located in the city of Columbia as accessible to the cotton compress of the Columbia Compress Company and also to the warehouse of the Standard Warehouse Company and to the railroads, for the convenient transfer of cotton from said platform to either of said places; to freight trains; said platform to be open to wagons.

Two Cotton Weighers to be appointed.

Said County Board of Commissioners of Richland County shall on or before the first day of June, A. D. 1909, and every four years thereafter, upon the recommendation of the Senator and Representatives of Richland County to the General Assembly, elect and commission for a term of four years two Cotton Weighers for the city of Columbia, one of whom shall have been recommended by at least twenty-five cotton growers resident in the city of Columbia and one of whom shall have been recommended by a majority of the cotton buyers located in the city of Columbia: *Provided*, That no person shall be elected Cotton Weigher who is related within the sixth degree by blood or marriage to any one of the said Commissioners; and said Board of

A. D. 1912.

Commissioners shall likewise commission as Public Cotton Weighers the superintendent of the Columbia Compress Company and the manager of the Standard Warehouse Company in said city, each Weigher before receiving his commission to take and subscribe the oath of office and to enter into a bond with two good sureties or an approved surety company in the sum of three hundred (\$300) dollars, payable to the County Board of Commissioners or whoever may be aggrieved, for the faithful performance of his duties, said bond to be approved by the County Board of Commissioners and filed with the Clerk of Court.

The said Public Cotton Weighers shall provide for their suitable scales and shall test the same frequently and keep them accurate and provide themselves necessary help and weigh promptly and fairly all cotton offered to them, and mark each bale of cotton as indicated by tag of buyer and shall number each bale and keep the cotton of each buyer together so as to facilitate prompt shipment, and they shall issue tickets showing the number, mark and weight of each bale weighed by them, and shall adjust any differences between sellers and buyers as to moisture or mixed or false packing; tare of each bale not to exceed twenty to twenty-four pounds.

The said Public Weighers shall charge and receive for their services and the use of the platform, ten cents for each bale weighed by them, five cents to be paid by the seller and five cents by the buyer, and for such cotton as may remain on the platform more than five days the Weighers shall collect an additional charge of one cent per bale for each additional day, cotton on the platform always to be at the risk of the owner; they shall render to the County Board of Commissioners a monthly statement of the cotton weighed and shall pay to the County Treasurer as compensation for the use of the platform one cent per bale for all cotton weighed by them and one-half of the amount collected for cotton remaining on the platform more than five days.

All wagon or street cotton sold in the city of Columbia shall be weighed by one of the public weighers on the public platform herein provided for.

*Days of
Cotton Weigh-
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*Charges to
be made.*

*All cotton to
be weighed
by Cotton
Weighers.*

open at 10 a. m. and close at 5 p. m., and on the third Tuesday in July each year thereafter. The County Supervisor shall appoint three men as managers of said election, and shall give notice of the time and place of holding the same at least ten days before the day of said election. The said Cotton Weigher shall enter into bond to the said County Supervisor in the sum of three hundred dollars for the faithful performance of his duties, which bond shall be approved and filed with the said County Supervisor, and said Cotton Weigher shall receive as compensation for his services ten cents per bale for each bale weighed by him, the same to be paid in equal proportions by the buyer and seller. It shall be the duty of said Cotton Weigher to provide scales and ample facilities for handling cotton sold and weighed. It shall also be the duty of the said Weigher to weigh all cotton brought to him to be weighed fairly and promptly, issuing a ticket therefor, which shall show the weight of each bale. It shall be his further duty to adjust any differences between buyers and sellers as to moisture, mixture or false packing. In case of disability, by sickness or other cause, the said Cotton Weigher may appoint temporarily a deputy, who shall take the usual oath of office before a Magistrate previous to entering upon his duty. When any false weighing or omission of duty on part of said Weigher occurs, whereby either buyer or seller suffers loss or injury, such Weigher and his bondsmen shall be held liable to the extent of such loss or injury. For the purposes of this Section, qualified voters shall include all male citizens who are patrons of the Kershaw cotton market, resident within the County of Kershaw. The said County Supervisor shall advertise by posting notices in three conspicuous places in the County or otherwise and for at least ten days before such election the time and place at 6 o'clock on the third day next preceding such election and delivered to the manager of such election, forthwith, a certified list of the names of all persons to whom he shall have issued such certificates, and such certified list shall be used by the said managers as the poll book in such election. The person receiving the highest number of votes cast in such election shall be the Cotton Weigher for the said town, and his term of office shall be

Duties of
Cotton Weigh-
er.

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case of inability from sickness, or other cause, the said Weigher may appoint a deputy, who shall take, before entering upon his duties, the oath of office required of the Weigher. Before entering upon the duties of his office, the said Cotton Weigher shall be sworn to discharge the duties of his position by the Clerk of Court for Colleton County, and shall enter into a bond in the sum of five hundred dollars for the faithful performance of his duty, which bond shall be approved by the Clerk of Court for said County and filed in his office, and the said Weigher shall be responsible on his bond for the official acts of his deputy.

Sec. 2093. Upon the petition of twenty-five or more qualified electors, who are growers and buyers of cotton, cotton growers, or cotton buyers, resident within five miles of Lamar, in Darlington County, the Town Council

Cotton Weighers for Lamar, Darlington County.

1909, XXVI

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of said town shall, within thirty days after receipt of said petition, provide for and annually conduct an election, and in the usual manner of elections in said towns, for a Public Cotton Weigher for said town, whose term of office shall be for one year, and until the election and qualification of his successor. At such election all and only cotton growers and cotton buyers who are qualified electors and reside within a radius of five miles of the depot, in said town, shall be entitled to vote; the said Town Council shall declare the result of said election, and the person receiving the highest number of votes shall be the Public Cotton Weigher for said town, and he shall receive as compensation for his services not exceeding six cents per bale for every bale of cotton weighed, one-half to be paid by the buyer and one-half by the seller; such Weigher shall finally adjust and settle all differences or disputes between buyers and sellers as to proper deductions to be allowed from water, dampness, damaged cotton, or any false packing; and the said Weigher shall test the scales every morning before weighing cotton, so as to insure accuracy. In case of inability from sickness or other cause, the said Weigher may appoint a deputy, who shall take, before entering upon his duties, the usual oath of office in the manner required of the Weigher. Before entering upon the duties of his office, the said Cotton Weigher shall be legally sworn to discharge the duties of his position by the Intendant of the town of

ient bond, with two or more sureties, in the sum of three hundred dollars, payable to said Commissioners, and conditioned for the faithful performance of his duties as such Cotton Weigher; said bond to be approved by said Commissioners. Any other person than a duly elected and commissioned Cotton Weigher, charging or receiving any sum or sums of money or other valuable consideration for weighing cotton in said County of Dorchester, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined a sum not exceeding one hundred dollars, or imprisonment for a term not exceeding thirty days. The said Commissioners are authorized to fill any vacancy caused by the death or resignation of any Cotton Weigher elected under the provisions of this Section, by appointment. That all scales shall be tested by the Clerk of Court.

Sec. 2095. Upon the petition of twenty-five, or more, qualified electors, who are growers and buyers of cotton or ^{Public Cotton Weigher at Batesburg} cotton growers, or cotton buyers, resident within five miles of Batesburg, the Town Council of said town, shall, within thirty days after the receipt of said petition, provide for an annual election, and in the usual manner of elections in said town, for a Public Cotton Weigher for said town, whose term of office shall be for one year, or until the election and qualification of his successor. At such election, ^{Election.} all and only cotton growers and cotton buyers who are qualified electors, and reside within a radius of five miles of the depot in said town, shall be entitled to vote; the said Town Council shall declare the result of said election, and the person receiving the highest number of votes shall be the Public Cotton Weigher for said town, and he shall receive as compensation for his services not exceeding ten cents per bale for every bale of cotton weighed, one-half to be paid by the buyer and one-half by the seller. Such Weigher shall finally adjust and settle all differences and disputes between buyers and sellers as to proper deductions to be allowed from water, dampness, damaged cotton, or any false packing; and the said Weigher shall test the scales every morning before weighing any cotton, so as to ensure accuracy. In case of inability, from sickness or other cause, the said Weigher may appoint a deputy, who shall take, before entering upon his duties, the usual oath

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buyer: *Provided*, Nothing herein contained shall apply to sales made on plantations or at cotton mills.

It shall be the duty of the Weigher or Weighers at each market having a Weigher or Weighers to furnish a platform or platforms with sufficient facilities, including a set of scales for each Weigher, so that said cotton shall be expeditiously handled at a minimum cost, at which platform or platforms all cotton sold in said market shall be weighed, which platform or platforms shall be approachable from both sides. It shall be the duty of each Weigher to weigh fairly and promptly all cotton sold in said market or markets, issuing his own ticket therefor, showing the weight of each bale or package of cotton weighed. It shall be the duty of such Weighers to adjust any difference between sellers and buyers as to moisture, mixed and false packing or damage. In case of inability from sickness or other cause, and from the first day of March to the first day of September of each year, a Weigher may appoint a deputy, who shall take, before entering upon his duties, the usual oath of office in the manner required of the Weigher. The elected Weigher shall be responsible on his bond for the official acts of his deputy. Each Weigher or his deputy shall devote his exclusive attention to the duties of his office during the cotton marketing season. Each Weigher shall test his scales once a month by the standards in the office of the Clerk of the Court as provided by law: *Provided*, That the County Board of Commissioners may for good and sufficient cause shown remove any Public Cotton Weigher from his office after first giving such Weigher at least ten days' notice to show cause why he should not be removed, and shall have power to fill any vacancy occurring in the office of Public Cotton Weigher as soon thereafter as practicable.

That the County Board of Commissioners of said County may enter into a binding and valid contract for a term of years not exceeding ten, with one or more persons or corporations to furnish a platform of such size and capacity as said Board of County Commissioners may deem sufficient for the expeditious handling of the cotton coming into said market, and for services in handling the cotton on said platform, for the use of which platform and services

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16. City Council of Charleston to regulate sale of.
 17. Board of Health to provide for inspection of food, drugs, etc.
 18. To publish list of exempted articles.

Sec.

2119. Persons offering articles for sale to furnish samples for analysis when demanded.
 2120. Definition of food and drugs.
 2121. What deemed to be adulterated drugs, food and drink.

Section 2098. The City Council of Charleston shall appoint a competent person as Inspector of Flour for the City of Charleston, who shall hold his office for two years, and who shall give bond to the State of South Carolina, with good security, to be approved by the City Council of Charleston, in the penal sum of two thousand dollars, conditioned for the faithful discharge of the duties of the said office.

Inspector of Flour for City of Charleston; appointment; bond and term.

Civ. '02, § 1559.

Interpreted.—*Caulfield v. State*, 1 S. C., 46.

Sec. 2099. It shall not be lawful, if inspection be demanded by the seller or purchaser, to sell in the city of Charleston any barrel, half barrel or bag of flour or meal of wheat, rye or corn unless the same shall have been first submitted to the view and examination of the Inspector of

Flour must be inspected before sale; when; exception.

Civ. '02, § 1560.

the aforesaid city, and by him examined in some lot, street or warehouse, open and accessible to all persons; but flour of wheat, rye or corn manufactured in the city of Charleston for export to any other port or ports beyond the limits of the State shall not be liable to inspection in the said city.

Sec. 2100. Every cask or barrel containing flour or meal of wheat, rye or corn brought into or manufactured in the City of Charleston for sale shall be well made, of good seasoned materials, and sufficiently hooped and nailed; and the said Inspector shall cause all casks or barrels not made as aforesaid, and not in merchantable condition, but capable of being made so at a reasonable expense, to be repaired and brought in merchantable condition at the expense of the owner thereof.

Regulations as to barrels, etc.

Civ. '02, § 1561.

Sec. 2101. Every barrel submitted for inspection as aforesaid shall contain such quantity of flour or meal as shall be found to be of the net weight of one hundred and ninety-six pounds; and each and every half barrel shall contain such quantity as shall be of the net weight of ninety-eight pounds; and the said Inspector shall

To contain what quantity, etc.

Civ. '02, § 1562.

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no other, according to the best of his knowledge and judgment; and also the oath provided for public officers.

Sec. 2106. No flour merely passing through the City of Charleston from any place in this or any other State to any other port or place out of this State shall be required to be inspected in the said City of Charleston: *Provided*, that such flour be distinctly marked before it comes into the said city, upon the barrels or bags, with the name of the place from whence it comes, and the name of the port or place of its destination, with the words "in transit" between the names of the said two places.

Flour, etc., in transit not subject to inspection.

Civ. '02, § 1567.

Sec. 2107. The Charleston Chamber of Commerce shall appoint a Flour Committee consisting of five members, who shall arrange and adopt suitable standards for the different grades of flour; the standards so selected to conform as nearly as possible to similar standards adopted by the Boards of Inspection in the principal Atlantic cities.

The Charleston Chamber of Commerce may appoint a Flour Committee.

Civ. '02, § 1568.

Sec. 2108. The said Committee shall, as often as once in every three months, provide and adopt suitable standards for the different grades of flour, viz.: "Fine," "Superfine," "Extra," "Family," and "Extra Family." The standards so approved shall be kept in the possession of the Committee for reference in all cases of dispute which may arise. They shall also furnish the Inspector or Inspectors herein provided for with similar standards for their guidance; and all flour inspected by the said Inspectors shall be legibly marked or stamped "Charleston Chamber of Commerce Standard," with grade, day, month, year, and name of Inspector.

The Committee to arrange standards.

Civ. '02, § 1569.

Sec. 2109. The said Flour Committee shall also be empowered to settle and decide all cases of dispute that may arise in reference to the inspection of flour between the Inspectors and the parties for whom the inspection may have been performed; and when an Inspector is charged with passing flour which proves to be below the standard, sound or damaged when inspected, or deficient in any way, it shall be the duty of said Committee, when called upon, to investigate the case, and, if the Inspector is in fault, to assess such damages to be paid by him as in their judgment is fair and just. In all cases calling for their action a majority of said Committee shall constitute a quo-

To settle disputes between Inspectors and parties; when and how; appeal, etc.

Civ. '02, § 1570.

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to (2) cents per barrel or bag for each and every barrel or bag so inspected, weighed and branded, to be paid by the party requesting the same to be done, and the same fee on re-inspection.

Sec. 2113. In all cases calling for the action of the Committee to decide disputes as regards grade, soundness, or any other defect, between the Inspector and parties for whom such inspection has been made, the members of the Committee serving in said cases shall be paid one dollar for each meeting, the amount to be paid by the party against whom the case is decided by the Committee, or, in case of appeal, by the party against whom the appeal Court, herein provided for, shall decide.

Pay of Committee.

Civ. '02, § 1574.

Sec. 2114. No person shall take more toll for grinding corn, wheat, rye or any other grain into good meal or flour than one-eighth part of any quantity under ten bushels, and for ten bushels, or any quantity above, at one time more than one-tenth part only; and for all grain, as aforesaid, milled for hominy, feeding stock or for distilling, one-tenth part.

Tolls allowed for grinding.

Civ. '02, § 1575.

Sec. 2115. Any person or persons taking more toll than hereinbefore directed shall be subject to pay a fine to the amount of ten times the value of the toll so taken, to be recovered in the most summary way before the nearest magistrate; one-half to the prosecutor and the other half to the person aggrieved.

Penalty for taking more than allowed.

Civ. '02, § 1576.

Sec. 2116. The City Council of Charleston shall have full power and authority to regulate and control the sale of grain by measurement or weight, or both, sold within the corporate limits of the city, in such manner as will insure a fair, equal and uniform sale and measurement of the same.

City Council of Charleston to regulate sale of.

Civ. '02, § 1577.

Sec. 2117. The State Board of Health shall take cognizance of the interests of the public health as it relates to the sale of food, drugs, spirituous, fermented and malt liquors, and the adulteration thereof, and make all necessary inquiries and investigations relating thereto, and for such purpose may appoint inspectors, analysts and chemists, who shall be subject to its supervision and removal. Within thirty days after February 19th, 1898, the said State Board of Health shall adopt such measures as it may deem necessary.

General duties of Board of Health as to inspection of food, drugs, etc.

Civ. '02, § 1578.

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sary to facilitate the enforcement thereof. It shall make rules and regulations with regard to the proper collection and examining drugs, articles of food, spirituous, fermented and malt liquors.

Duty of Board of Health to publish exempted articles.

Civ. '02, § 1579.

Sec. 2118. It shall be the duty of the State Board of Health to prepare and publish from time to time a list of articles, mixtures or compounds declared to be exempted from the provisions of this Article in accordance with the preceding Section. The State Board of Health shall from time to time fix the limits of variability permissible in the composition of food or drug, or compound, the standard of which is established by any national Pharmacopœia.

Persons offering certain articles for sale to furnish samples for analysis when demanded.

Civ. '02, § 1580.

Sec. 2119. Every person offering or exposing for sale or delivering to a purchaser, any drug or article of food, spirituous, fermented or malt liquors included in the provisions of Section 2117, shall furnish to any other officer or agent appointed hereunder, when demanded, to him for the purpose and shall tender to him, in connection with the same, a sample sufficient for the purpose of analysis of any such drug or article of food or drink while in his possession.

Meaning of the word "food" and the word "drug."

Civ. '02, § 1581.

Sec. 2120. The term "food" as used in Section 2117 shall include every article used for food or drink by man or beast, including all candies, teas, coffees, and spirituous, fermented and malt liquors. The term "drug" as used in Section 2117 shall include all medicines for internal or external use.

Adulterated drugs: what deemed to be.

Civ. '02, § 1582.

Sec. 2121. An article shall be deemed to be adulterated if:

(a) In the case of drugs:

1. If, when sold under or by a name recognized in the United States Pharmacopœia, it differs from the standard of strength, quality or purity laid down therein.

2. If, when sold under or by a name not recognized in the United States Pharmacopœia, but which is recognized in some other Pharmacopœia or other standard work, such as the Pharmacopœia Materia Medica, it differs materially from the standard of strength, quality or purity laid down in such work.

3. If its strength or purity falls below the standard under which it is sold.

(b) In case of food or drink:

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1. If any substance or substances has or have been mixed with it so as to reduce or lower or injuriously affect its quality or strength. What deemed adulterated food or drink.

2. If any inferior or cheaper substance or substances has have been substituted wholly or in part for the article.

3. If any valuable constituent of the article has been wholly or in part abstracted.

4. If it be an imitation of, or be sold under, the name of another article.

5. If it consists wholly or in part of a deceased, or decomposed, or putrid, or rotten animal or vegetable substance, whether manufactured or not, or in the case of milk, it is the produce of a diseased animal.

6. If it be colored or coated, or polished, or powdered, whereby damage is concealed, or it is made to appear better than it really is, or of greater value.

7. If it contains any added poisonous ingredient, or any ingredient which may render such article injurious to the health of the person consuming: *Provided*, That the State Board of Health may declare from time to time certain articles or preparations to be exempt from the provisions of Sections 2117 to 2121: *And provided, further*, That the provisions of Sections 2117 to 2121 shall not apply to mixtures or compounds recognized as ordinary articles of food, provided that the same are not injurious to health, and that the articles are distinctly labeled as a mixture, stating the components of the mixture.

State Board of Health may declare certain articles exempt from this Act.

See Section 2119.

(c) In the case of spirituous, fermented and malt liquors: What deemed adulterated liquors. if it contains any substance or ingredient not normal or healthful to exist in spirituous, fermented or malt liquors, which may be deleterious or detrimental to health when such liquors are used as a beverage or as a medicine, and it does not conform in respect to strength and purity required by the laws of this State.

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ARTICLE IV.

GAUGING LIQUORS—NAVAL STORES.

Sec.	Sec.
2122. Certain liquors sold in City of Charleston to be gauged before delivery. Gauger, appointment and term of.	2128. Fees allowed;
2122. Unlawful for others to exercise duties of Gauger; penalty.	2129. Weight of barrel; pentine; qu a barrel.
2123. Fees of Gauger.	2130. Casks and branded, et fallure.
2124. City Council of Charleston to appoint Inspectors of Naval Stores.	2131. Penalty for ex brands, etc.
2125. Inspector's bond.	2132. Barrels may purchasers suspected, s
2126. Duties of.	2133. To be done at
2127. To weigh, search, try and brand.	

Section 2122. All oils, molasses, syrups, wines, and liquors, (not domestic) sold in the city of Charleston to be gauged before delivery; Gauger appointed and term of.

Civ. '02, § 1583.

Unlawful for others to exercise duties of Gauger; penalty.

Civ. '02, § 1584.

Fees of Gauger.

Civ. '02, § 1585.

City Council of Charleston to appoint Inspectors of Naval Stores.

Civ. '02, § 1586.

Sec. 2122. All oils, molasses, syrups, wines, and liquors, (not domestic) sold in the city of Charleston to be gauged before delivery, be gauged by the Gauger, elected by the City Council of Charleston. term of office shall be for four years.

Sec. 2123. It shall not be lawful for any persons, except those duly elected by the City Council of Charleston, to exercise the duties of Gauger, or of the aforesaid articles, under such penalty for as may have been or may hereafter be fixed by the City Council of Charleston, the said penalty to be in the hands of any Court of competent jurisdiction.

Sec. 2124. The fee charged for the said gauging shall not exceed ten cents per package, to be paid by the authorized Gauger; and all fees accruing to the gaugers in the discharge of their duties shall be shared between them.

Sec. 2125. The City Council of Charleston shall be authorized to appoint such number of Inspectors of Naval Stores as the wants of the trade may in their judgment require. No other person than those so appointed can perform any of the duties of Inspectors of Naval Stores in said city. In case any one not appointed by the City Council shall assume to perform any of said duties, he shall be liable to the pains and penalties of the

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the City Council of Charleston in such case made and provided.

Sec. 2126. Each of the Inspectors so appointed shall give and in the sum of two thousand dollars, conditioned for the faithful discharge of his duties.

Inspectors to give bond, etc.

Civ. '02, § 1587.

Sec. 2127. It shall be the duty of the Inspectors of Naval Stores for the city of Charleston to examine and inspect any crude turpentine or rosin of grades other than those known

To examine crude turpentine, etc.

Civ. '02, § 1588.

"common" or "number two," which may be offered for sale in the city of Charleston; and which may be submitted for examination by the owner or other person having charge of the same.

Sec. 2128. Every barrel of crude turpentine or rosin submitted to an Inspector as aforesaid shall be by him weighed and searched and tried, and the Inspector shall brand every

To weigh, search, try, and brand.

Civ. '02, § 1589.

such barrel or cask with the word "Charleston," and shall brand thereon, in characters known to the trade, the quality of said turpentine or rosin, together with the weight of the same expressed in figures, and every barrel of rosin and turpentine shall be cleaned, strained and merchantable, without chips, leaves, filth, or dirt.

Sec. 2129. For every barrel of turpentine or rosin weighed by the Inspector, he shall be entitled to three cents, and for every barrel inspected and branded as herein

Fees allowed; to have lien for.

Civ. '02, § 1590.

inspected, three and one-quarter cents, to be paid by the owner of said turpentine or his agent, and the Inspector shall have a lien on said barrels for the amount due.

See Criminal Code; penalty for altering brands, etc., interference with Inspector.

Sec. 2130. In the absence of satisfactory proof of a special stipulation to the contrary, it shall be presumed and held that the quantity and weight of crude turpentine to make a barrel thereof is two hundred and eighty pounds, and that the quantity of tar to make a barrel thereof is thirty-two gallons.

Weight of barrel of crude turpentine; quantity of tar to a barrel.

Civ. '02, § 1591.

Sec. 2131. Every person who shall sell or expose for sale any part of this State any pitch, tar, rosin, turpentine, beef, or pork, in any casks or barrels, shall first set on every such cask or barrel a burnt mark, with the first letter of

Casks and barrels to be branded, etc. Penalty for failure.

Civ. '02, § 1592.

the Christian name, and the surname at length, of the maker of such commodity, with an iron brand; and if any

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at that port or place, anything hereinbefore contained to the contrary notwithstanding.

ARTICLE V.

PORK AND BEEF—RICE—STAVES AND SHINGLES.

Sec.
2135. Barrels to contain and weigh what; how to be packed.
2136. Penalty for killing cattle for packing not previously penned twelve hours.
2137. Barrels to be made of seasoned white or water oak.

Sec.
2138. Barrels of rice containing fraudulent mixtures to be forfeited to State; how examined.
2139. Proceedings in case sellers do not nominate arbitrators.
2140. Pipe staves and shingles, material and dimensions of.

Section 2135. Every barrel of pork or beef, packed and sold in this State shall contain thirty gallons and two hundred pounds weight of wholesome, well-cured meat in the same, which shall be weighed by the packers, and well packed with salt and pickle, each piece not to weigh more than eight pounds, and not to be cut or mangled further than to take out the kernels or where the bones require it, and not more than two heads in one barrel of pork. No beef's heads or shanks shall at all be packed.

Barrels to contain and weigh what; how to be packed.

Civ. '02, § 1596.

Sec. 2136. In case any person shall kill any cattle to put in barrels for sale, without having first penned them twelve hours before killing them, every such person shall forfeit the sum of ten dollars, current money, for every head of cattle so killed, to the person who will sue for the same, to be recovered before any Magistrate.

Penalty for killing cattle for packing not previously penned 12 hours.

Civ. '02, § 1597.

Sec. 2137. Every person in this State shall make the casks for packing beef or pork of sound, dry, and well-seasoned white or water oak timber, without sap, the heads as well as bodies of which casks shall be made tight, so as to hold pickle, and shall fill the said casks with water before the same are packed with any beef or pork.

Barrels to be made of seasoned white or water oak.

Civ. '02, § 1598.

Sec. 2138. If any planter or other person shall sell or expose for sale to any merchant, factor, or any other person, at any port or place of exportation within this State, any casks or barrels of rice which, upon opening or uncasking the same, shall be found to contain any unfair and fraudu-

Fraudulent mixtures to be forfeited to the State; how examined

Civ. '02, § 1599.

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lent mixture of small or damaged rice, then, in such case, the seller of the said rice, or person offering the same for sale, shall immediately, on request of the buyer or person offering to buy the same, name one person, being a freeholder, and the said buyer shall view the said rice, and if such two persons shall agree in opinion, and certify the same in writing under their hands, that such rice was deceitfully and fraudulently exposed for sale, every such cask or barrel so packed and exposed for sale, shall be forfeited to the buyer, and the same shall be sold or caused to be sold by the Treasurer, or by the person or persons who shall be named for the same for the use aforesaid, who shall be allowed five per cent. for their trouble.

Proceedings
in case sellers
do not nomi-
nate arbitra-
tors.

Civ. '02, §
1600.

Sec. 2139. If the seller shall refuse to nominate two persons to view the said rice, then the buyer shall nominate two persons to view such rice, who shall have the same power as if one had been named by the seller and one by the buyer.

Provided, That in case the said persons nominated by the buyer shall not agree in opinion, they shall have the power to nominate a third person, being a freeholder as aforesaid, who shall have the same power as the first two by themselves; and in case either of the said two persons shall neglect to join or cannot agree in nominating a third person, then in such case any Magistrate, on application by both or either of the said persons, shall, and he is required to nominate such third person, which third person shall have the same power in the premises as if he had been nominated by both. And such adjudication and certificate shall be made within twenty-four hours from the time of application, and the said certificate shall be deemed a condemnation of the said rice to warrant the seller as aforesaid; any law, statute, usage, or custom to the contrary notwithstanding.

Size of pipe
staves, etc.

Civ. '02, §
1601.

Sec. 2140. All staves to be made for exportation shall be made of good and sound timber, and shall be of the following dimensions, to wit: Each pipe stave to be of white oak, fifty-eight inches long, and not less than three-quarters of an inch thick at the thin edge, and the broad end broad, clear of sap; each hoghead stave to be made of

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white oak, forty-two inches long, not to be less than three-quarters of an inch thick at the thin edge, and four inches wide, clear of sap; and each barrel stave, of red or white oak, to be thirty inches long, not to be less than half an inch thick at the thin edge, and four inches broad, clear of sap; each shingle to be twenty-two inches in length, and not less than half an inch thick at the thick end, and well shaved, and not to be winding, and not less than three inches and half broad, clear of sap.

ARTICLE VI.

INSPECTION OF TIMBER AND LUMBER.

1. Rules for measuring ranging lumber.
2. In the City of Charleston no timber to be sold except by board measurement; exception.
3. City Council of Charleston, Town Councils of Beaufort, Port Royal and Georgetown to elect Inspectors annually; bond; oath.

2144. Inspectors to measure timber as herein directed; sale of timber in bulk.

2145. Lumber to be inspected by licensed Measurers.

2146. Fees of Measurers.

Section 2141. All ranging timber bought or sold in the markets of this State shall be by board or superficial measurement; and any person or persons who shall buy or sell ranging timber in or for the markets of Charleston or Georgetown, or any other public market in this State, by the method known as "side and edge measurement," that is to say, adding the side to the edge, multiplying by the length, and dividing by twelve [(side + edge) X length ÷ twelve], shall be fined for every such act of buying or selling not less than one hundred dollars and not more than three hundred dollars.

Rules for measuring; penalty for violation.

Civ. '02, § 1602.

Sec. 2142. No timber shall be sold or purchased in the City of Charleston by any mode of measurement except that of board or superficial measurement (unless by special contract between the parties), which shall alone be valid when made by the Inspectors or Surveyors of timber in the city of Charleston.

None to be sold except by board measurement.

Civ. '02, § 1603.

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City Council
of Charleston,
Town Coun-
cils of Beau-
fort, Port
Royal and
Georgetown
to elect In-
spectors an-
nually; bond;
oath.

Civ. '02, §
1604.

Inspectors to
measure tim-
ber as herein
directed; sale
of timber in
bulk.

Civ. '02, §
1605.

Lumber to be
inspected by
licensed meas-
urers.

Civ. '02, §
1606.

Sec. 2143. The City Council of Charleston and Councils of Beaufort, Port Royal, and Georgetown each elect annually, for their respective municipalities, one or more Inspectors and Surveyors of Timber, who, upon entering upon the duties of his or their office, shall execute a bond to the said Council, in the sum of two thousand dollars, with good sureties, for the performance of the duties of his or their office. They shall also take and subscribe the following oath, to wit: "I do solemnly swear (or affirm, as the case may be) that I will faithfully perform all the duties of Inspector and Surveyor of Timber in the city of Charleston (or in, as the case may be,) as prescribed by the Acts of General Assembly providing for the same: So help me God." And said bond shall be recorded in the Office of the Secretary of State, and shall be liable to suit at law or in equity of the State of South Carolina, or of individuals, for loss by the violation of the provisions of this section.

Sec. 2144. It shall be the duty of the said Surveyors and Inspectors to measure all timber in the manner herein directed brought for sale to the city of Charleston, at the instance of any person owning or buying the same, and to issue a certificate to such person, specifying the quality and quantity of such timber, and the number of lots in each lot; which certificate shall be evidence of the facts stated therein, as between the owner and purchaser. But nothing herein contained shall prevent any person from buying or selling timber in bulk without measurement.

Sec. 2145. All timber and lumber brought to sale at the ports of Charleston, Port Royal, Beaufort, and Georgetown, shall be measured and inspected by licensed measurers, selected by the seller and buyer, and the measurer so selected shall be entitled to the fee earned by him; and the manner of inspection and classification of both timber and lumber shall be determined, or may be agreed upon between the buyer and seller.

Should the buyer fail to agree to the selection of a measurer, then the measurement and inspection and classification may be made by any official measurer.

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Sec. 2146. The fees to be received by the measurers shall not exceed the following rates, viz: Ten (10) cents per thousand feet for all square, hewn, or round timber; ten (10) cents per thousand feet for all lumber measured by bulk measurement in rafts; and twenty-five (25) cents per thousand feet for all lumber measured and inspected by the measurer; the expense of measuring fees to be equally divided between the buyer and seller.

Fees.
Civ. '02, 1
1607.

ARTICLE VII.

CONCENTRATED COMMERCIAL FEEDING STUFFS.

	Sec.
2147. Concentrated animal food to contain statement of contents.	2153. Penalty for violation.
2148. What included.	2154. Commissioner may suspend sales.
2149. Statement to be filed with Commissioner of Agriculture, Commerce and Industries.	2155. Commissioner may inspect and take samples wherever found.
2150. If manufacturer files statement seller need not.	2156. Commissioner to publish regulations.
2151. Commissioner may refuse registration.	2157. Also as to grading.
2152. Inspection tax.	2158. Commissioner to notify dealer and Solicitor.
	2159. Expenses.
	2160. Analysts and Inspectors.

Section 2147. Every lot or parcel of concentrated commercial feeding stuff sold, offered or exposed for sale within this State shall have affixed thereto, or printed thereon in a conspicuous place on the outside thereof, a legible and plainly printed statement, in the English language, clearly and truly certifying the weight of the package (provided that all concentrated commercial feeding stuffs shall be in standard weight bags or packages of 25, 50, 75, 100, 125, 150, 175 or 200 pounds); the name, brand or trade-mark under which the article is sold; the name and address of the manufacturer, jobber or importer; the names of each and all ingredients of which the article is composed; a statement of the maximum percentage it contains of crude fiber, and the percentage of crude fat, and the percentage of crude protein, and the percentage of carbohydrates, allowing one per cent. of nitrogen to equal six and one-fourth per cent. of

Concentrate
animal food
to contain
statement of
contents.

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Inspection

Sec. 2152. Each and every manufacturer, importer, jobber, agent or seller of any concentrated commercial feeding stuff, as defined in Section 2148, shall pay to the Commissioner of Agriculture, Commerce and Industries, or shall deposit same in the State Treasury forthwith, an inspection tax of 25 cents per ton for each ton of such commercial feeding stuff sold, offered or exposed for sale or distributed in this State, and shall affix to, or accompany each shipped in bulk and to each bag, barrel or other packages of such concentrated commercial feeding stuff a stamp to be furnished by the Commissioner of Agriculture, Commerce and Industries, stating that all charges specified in this Section have been paid: *Provided*, Whenever any concentrated commercial feeding stuff, as defined in Section 2148, is kept for sale in bulk, stored in bins or otherwise, the manufacturer, dealer, jobber or importer keeping the same for sale shall keep on hand cards of proper size upon which is printed the statement or statements in Section 2147 is or are plainly printed; and if the feeding stuff is sold at retail in bulk, or if it is put up in packages belonging to the purchaser, the manufacturer, dealer, jobber or importer shall furnish the purchaser with one of said cards upon which is or are printed the statement or statements described in this Section, together with sufficient tax stamps to cover same: *Provided*, That the inspection tax of 25 cents per ton shall not apply to whole seeds and grains when not mixed with other seeds or materials: *Provided, further*, That, upon demand, said inspection stamps shall be redeemed by the Department issuing said stamps upon surrender of same, accompanied by an affidavit that the same have not been used: *Provided*, That nothing in this Act shall be construed to restrict or prohibit the sale of concentrated commercial feeding stuff in bulk to each other by importers, manufacturers or manipulators who mix concentrated commercial feeding stuff for sale; but importers, manufacturers and manipulators shall attach to such feeding stuff a tag stating that it is to be used for mixing purposes only, and said tag shall give the number of pounds in bulk or packages, the name of the manufacturer, the name of the stuff and its analysis, showing crude protein, crude fat, crude fiber and carbohydrates: and a duplicate of said tag shall

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ne of the goods, the quantity and why seized and offered for sale, and must show the time and place of sale. The Commissioner of Agriculture, Commerce and Industries, however, may, in his discretion, release the feeding stuffs so withdrawn when the requirements of the provisions of this Article have been complied with and upon payment of all the costs or expenses incurred in any proceeding connected with the seizure and withdrawal.

Sec. 2154. If at any time the Commissioner of Agriculture, Commerce and Industries, or his duly authorized representative, shall have reason to believe that any feeding stuff offered or exposed for sale in this State does not comply with the requirements of this Article as to the ingredients or substances of the same, it shall be his duty by written order to suspend the sale of the same until he shall have satisfied himself, or shall be satisfied by an analysis, or otherwise, that such feeding stuff is made up or compounded as required by this Article. If he shall find that the same does not comply with this Article, then he is authorized to proceed with regard to the same as provided in Section 2153.

Commissioner may suspend sales.

Sec. 2155. The Commissioner of Agriculture, Commerce and Industries, together with his deputies, agents and assistants, shall have free access to all places of business, mills, buildings, vehicles, cars, vessels and packages of whatsoever kind used in the manufacture, importation or sale of any concentrated commercial feeding stuff, and shall have power and authority to open any package containing or supposed to contain any concentrated commercial feeding stuff; and upon tender and full payment of the selling price of said samples, take therefrom, in the manner hereinafter prescribed, samples for analysis; and he shall annually cause to be analyzed at least one sample so taken of every concentrated commercial feeding stuff that is found, sold or offered or exposed for sale in this State under the provisions of this Article. Said samples, not less than one pound weight, shall be taken from not less than ten bags or packages, or, if there be less than ten bags or packages, then the samples shall be taken from each bag or package, if it be in bag or package form, or, if such feeding stuff be in bulk, then it shall be taken from ten different places of the lot.

Commissioner may inspect and take samples wherever found.

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All fees collected under the provisions of this Act be paid into the State treasury.

§160. The Commissioner of Agriculture, Commerce and Industries shall appoint such analysts, chemists and inspectors as may be required to carry out the provisions of Act, and any part of the labor of analysts and chemists upon request of the Commissioner of Agriculture, Commerce and Industries, shall be performed by the South Carolina Experiment Station, with such compensation for as may be approved by the said Commissioner of Agriculture, Commerce and Industries. Such inspectors also assist in the enforcement of the Pure Food and Drug Law of the State.

Analysts and inspectors.

ARTICLE VIII.

REGULATION OF SALE OF ENTIRE STOCK IN TRADE.

Conditions under which mercantile business may be sold out.	Sec.
	2162. Mailing notice conclusive presumption of receipt.
	2163. Not to affect rules of evidence.

Section 2161. It shall be unlawful for any merchant or corporation engaged in the buying and selling of merchandise while he or it is indebted to any person or corporation to sell his or its entire stock of merchandise in bulk, or to sell the major portion thereof, otherwise than in the ordinary course of trade, in the regular and usual prosecution of the seller's business, and with the intention of ceasing to conduct said business, in the same manner and at the same place as he or it has heretofore conducted the same, but first making a full and complete inventory of the merchandise so proposed to be sold, in which inventory the value shall be extended at the ruling wholesale price of the same; and without further making a full, true and correct schedule of all persons or corporations to whom he or it is indebted, stating therein the postoffice address of each creditor, and the amount owing to each of them; and such inventory and schedule there shall be attached thereto by the seller that the same is true and correct; or

Conditions under which mercantile business may be sold out.

Schedule of creditors.

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the merchandise in the hands of the purchaser, or any hereof, if it shall be found in his or its hands, shall be liable to such creditors, and in event the same, or any hereof, shall be withdrawn by said purchaser, then the purchaser himself or itself personally shall also be liable to the creditors of such seller to the extent of the value of the merchandise so received by him or it and thus with-

If requirements of this Act not complied with sale prima facie fraudulent.

2162. That whenever a notice, as provided in Section 360, is sent by registered mail, the creditor or person from whom the notice is mailed shall be presumed conclusively to have received the notice, and the time of the notice shall be reckoned from the time of the mailing and registration, or the date of service of said notice.

Mailing conclusive presumption of notice.

2163. Except as expressly provided in the preceding sections, nothing therein contained, nor any act thereunder, shall change or affect the present rules of evidence or the present presumption of law.

Not to affect rules of evidence.

ARTICLE IX.

TRUSTS, POOLS AND MONOPOLIES.

1. Conspiracies in restraint of trade prohibited.	Sec.
2. Monopolies defined.	2170. Duty of Attorney-General and Solicitor to prosecute.
3. Sales at less than cost of manufacturer for purpose of injuring competitor prohibited.	2171. Provisions of Act cumulative.
4. Penalty for violation.	2172. Proceedings for discovery and in aid or prosecutions to enforce anti-trust laws.
5. Conspiracy to defraud by boycott, etc., limiting competition in trade.	2173. Service of order on witness.
6. Forfeiture of corporate franchise or right to do business.	2174. Witness compelled to give testimony.
	2175. Powers of referee.
	2176. Article cumulative.

Section 2164. Any corporation organized under the laws of this or any other State or country, and transacting or conducting any kind of business in this State, or any partnership or individual, or other association of persons whatever, who shall create, enter into, become a member of or party to any pool, trust, agreement, combination, confed-

Conspiracies in restraint of trade prohibited.

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and all corporations or partnerships that have been or may be created by the consolidation or amalgamation of the separate capital, stock, bonds, assets, credit, properties, custom, trade or corporate or firm belongings of two or more firms or corporations or companies, are especially declared to constitute monopolies, within the meaning of this Article, if so created or entered into for any one or more of the purposes named in this Article; and a "monopoly," as defined in this Section, is hereby declared to be unlawful and against public policy; and any and all persons, firms, corporations or associations of persons engaged therein shall be deemed and adjudged guilty of a conspiracy to defraud, and shall be subject to the penalties prescribed in this Article.

Sec. 2166. If any person, persons, company, partnership, association or corporation engaged in the manufacture or sale of any article of commerce or consumption from the raw material produced or mined in this State, shall, with the intent or purpose of driving out competition, or for the purpose of financially injuring competitors, sell at less than the cost of manufacture, or give away their manufactured products, for the purpose of driving out competition or financially injuring competitors engaged in the manufacture and refining of raw material in this State, said person, persons, company, partnership, association or corporation resorting to this method of securing a monopoly in the manufacture, refining and sale of the finished product produced or mined in this State, shall be deemed guilty of a conspiracy to form or secure a trust or monopoly in restraint of trade, and, on conviction, shall be subject to the penalties of this Act.

Sec. 2167. Any person, partnership, firm or association, or any representative or agent thereof, or any corporation or company, or any officer, representative or agent thereof, violating any of the provisions of this Article, shall forfeit not less than two hundred dollars, nor more than five thousand dollars, for every such offense, and each day such person, corporation, partnership or association shall continue to do so, shall be a separate offense, the penalties in such cases to be recovered by an action in the name of the State, at the relation of the Attorney-General or the Solicitor of the Judicial Circuit within which the offense was committed.

Sales at less than cost of manufacture, for purpose of injuring competitors prohibited.

Penalty for violation.

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ted; the moneys thus collected to go into the treasury, and to become a part of the general fund hereinafter provided. The amount of the forfeiture by the Judge before whom the case is tried in within the aforesaid limits; the collection of which shall be enforced as the collections of fines against delinquents upon conviction of a misdemeanor.

Conspiracy to defraud by boycott, etc., limiting competition in trade.

Sec. 2168. If any two or more persons or corporations who are engaged in buying or selling any article of commerce, manufacture, mechanism, merchandise, convenience, repair, any product of mining or any other thing whatsoever, shall enter into any pool, trust, agreement, combination, confederation, understanding to control or limit the trade in any such thing; or to limit competition in such trade by buying from or sell to any other person or corporation any article or thing aforesaid, for the reason that such person or corporation is not a member of or a party to such pool, trust, agreement, combination, confederation or understanding; or shall boycott or threaten any person or corporation, for buying from or selling to any other person or corporation who is not a member or party to such pool, trust, agreement, combination, confederation, association or understanding, any such thing aforesaid, it shall be a violation of this Article. Any person, firm, corporation or association of persons committing such violation shall be deemed and adjudged to be guilty of a conspiracy to defraud, and shall be subject to the penalties prescribed in this Article.

Forfeiture of corporate franchise or right to do business.

Sec. 2169. Any corporation created or organized under the laws of this State which shall violate any provisions of the preceding Sections of this Article shall forfeit its corporate rights and franchises; and its existence shall, upon the proper proof being made, be declared in any Court of competent jurisdiction in the State. If the Court declared forfeited, void and of none effect, shall thereupon cease and determine; and any corporation created or organized by or under the law of any other State or country which shall violate any of the provisions of the preceding Sections of this Article, shall thereby forfeit its right and privilege thereafter to do any business in

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and upon proper proof being made thereof in any Court of competent jurisdiction in this State, its rights and privileges to do business in this State shall be declared forfeited; and in all proceedings to have such forfeiture declared, proof that any person who has been acting as agent of such foreign corporation in transacting its business in this State has been, while acting as such agent and in the name, behalf or interest of such foreign corporation, violating any provisions of the preceding Sections of this Article, shall be received as *prima facie* proof of the act of the corporation itself; and it shall be the duty of the Clerk of said Court to certify the decree thereof to the Secretary of State.

Sec. 2170. It shall be the duty of the Attorney-General and the prosecuting attorney of each Circuit where the offense is committed, respectively, to enforce the provisions of this Article. The prosecuting attorney or Solicitor shall institute and conduct all suits begun in the Circuit Courts, and upon appeal the Attorney-General shall prosecute said suits in the Supreme Court.

Duty of Attorney-General and Solicitors to prosecute.

Sec. 2171. The provisions of the foregoing Sections, and the pains and penalties provided for violations of this Article shall be held and construed to be cumulative to all laws now in force in this State: *And provided*, That the provisions of this Article shall not exempt from punishment or forfeiture any person, firm, association of persons or corporations, who may have violated or offended against any law now in existence that may be or may be construed to be repealed by this Article or in conflict herewith: *And provided, further*, That nothing in this Article shall be deemed or construed to effect any suits or prosecutions now pending or hereafter to be instituted upon any course of action, forfeiture or penalty accruing or to accrue prior to the date of the taking effect of this Article, but all such rights to maintain, institute or prosecute all such causes of action are hereby reserved to the State in the same manner and with the same effect as if this law had not been passed.

Provisions of Act cumulative.

Sec. 2172. Whenever the Attorney-General has determined to commence an action or proceeding, under the Act entitled "An Act to prohibit trusts and combinations and to provide penalties," or any Acts amendatory thereto, or any Acts now or hereafter of force, relating to the prohibition

Proceedings for discovery in aid of actions to enforce anti-trust laws.

CIVIL CODE

trusts, combinations or monopolies, foreign or domestic, for any purpose hereafter of force of this Statute of the Supreme Court, or at any time or after beginning such action in writing, for an order entered in the application to appear before the Supreme Court, a Circuit Judge, or a District Judge, and answer such questions to any of them, and produce such books concerning any alleged conspiracy, agreement, trust, monopoly, or acts in violation of law; and the application to the Supreme Court, or to any such application for the order is denied. The application upon the necessity of such showing for a writ of Habeas Corpus must show upon its face, otherwise, that the testimony of such witnesses is material and necessary. The order of the Supreme Court, or of any such application has been made, the Court or stay as may appear. The Judge to be proper and experienced in when, and place where, the examination shall be held, and such examination shall be held at the City of Columbia or in the judicial district in which the principal office of the corporation affected, or the referee may adjourn such examination at any time, and witnesses must attend. The testimony of each witness must be taken in the case the testimony be taken in the presence of a stenographer, and all such proceedings in the office of the Clerk of the Court for examination is filed. The order for such examination shall be made by the Court or Judge making it, and the order shall be with an endorsement by the Court or Judge, to the effect that the person named therein shall appear and be examined as to the facts and circumstances

and place, and before the Justice, Circuit Judge or referee specified in such endorsement, shall be sufficient notice for the attendance of witnesses. Such endorsement may contain a clause requiring such person to produce on such examination all books, papers and documents in his possession, or under his control, relating to the subject of such examination. The order shall be served upon the person named in the endorsement aforesaid, by showing him the original order, and delivering to and leaving with him, at the same time, a copy thereof endorsed as above provided, and by paying or tendering to him the fee allowed by law to witnesses subpoenaed to attend trials of civil actions in a Court of record in this State.

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Endorsement.
Subpoena
fees.How served;
fees to be ten-
dered.

Sec. 2174. No person shall be excused from answering any questions that may be put to him, or from producing any books, papers or documents on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, but no person shall be prosecuted in any criminal action or proceedings, or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify, or produce evidence, documentary or otherwise, before said Justice, Judge or referee appointed in the order for his examination, or in obedience to the subpoena of the Court, or referee acting under such order, or either of them, or in any such case or proceeding.

Witness com-
pelled to give
testimony;
protected
from criminal
prosecution.

Sec. 2175. A referee appointed as provided in this Article possesses all the powers and is subject to all the duties of a referee appointed under the Code of Civil Procedure, so far as practicable, and may punish for contempt a witness duly served as prescribed in this Article for non-attendance or refusal to be sworn or to testify, or to produce books, papers and documents according to the direction of the endorsements aforesaid, in the same manner and to the same extent as a referee appointed to hear, try and determine an issue of fact or of law.

Powers of
Referee.

Sec. 2176. This Article shall be deemed and taken as cumulative of all statutes of this State.

Act cumula-
tive.

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CHAPTER XXXV.

Auctions and Vendues.

Sec.

2177. Auctioneers, &c., to give bond to city or town where they reside.

2178. Purchasers at sale refusing to comply with terms, etc., liable for losses on a resale.

Sec.

2179. Remedy against

2180. Responsibility for goods.

Auctioneers, etc., to give bond to city or to town where they reside.

Civ. '02, § 1608.

Section 2177. Every vendue master and before he shall act in such capacity, shall be required to give to the Council of the city or town where he resides full and ample security for the due and faithful performance of his duty as auctioneer or vendue master, which may be.

As to liability of sureties.—City Council v. Patterson, 2 Ba.

Purchasers at sales refusing to comply with terms, etc., liable for losses on a resale.

Civ. '02, § 1609.

Sec. 2178. Every person who shall purchase horses, cattle, ships, boats, or other vessels, goods, merchandise, at any public sale in this State, the purchase shall be entered in the books of the vendue master so selling such property, such person refusing to comply with the conditions of the said sale within seven days after shall be liable to all losses arising thereon to the original owner; and for the more speedy ascertaining the vendue master is authorized to resell such lands, horses, cattle, ships, boats, or other vessels, goods, and merchandise, on the original conditions, giving ten days' notice of said sale; and whatever deficiency on said purchaser's non-compliance, the vendue master may recover, at the first ensuing Court having jurisdiction, from every person so declining to comply with the conditions of the original purchase, together with the expenses and other expenses attending the sale. No person given in any such cause shall be arrested or stay of proceedings on reason of any error or mistake in the proceedings.

Liability of Auctioneer to seller.—Wilkinson v. Campbell, 2 N. & McC., 435. Not entitled to commission if bid is complied with.—Cochran v. Johnson, 2 McC. Lien of.—Torre, 3 Hill, L. 155.

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As to entry in book.—*Davis v. Robertson*, 1 Mill, 71; *Meadows v. Meadows*, 3 McC., 458; *Anderson v. Chick*, Ball. Eq., 118; *Trustees v. Wiley*, 2 Hill Ch., 584; *Carter v. Bennett*, Dudley, 142; *Ents v. Mills*, 1 McM., 458; *Savage v. Kinloch*, Speer Eq., 464; *Cathcart v. Kennaghan*, 5 Strob., 129; *Pope v. Chaffee*, 14 Rich. Eq., 69; *Davis v. Winsmith*, 5 S. C., 68. Liability of purchaser.—Resale: *Hall v. O'Hanlon*, 2 Brev., 46; *Gardner v. Sanders*, Id., 180; *Campbell v. Ingraham*, 1 Mill, 293; *Leman v. Blackwood*, Harp., 219. Notice of adverse claim.—*Wainwright v. Read*, 1 DeSaus., 573. Puffing sale.—*Jenkins v. Hogg*, 2 Tread. Const., 821. Purchase by agent.—/b. The authority need not be in writing to bind principal.—*Trustees v. Wiley*, 2 Hill Ch., 584; *Blum v. Della Torre*, Riley, 155. Compliance with conditions.—*Boinest v. Leignex*, 2 Rich., 465; *Cathcart v. Kennaghan*, 5 Strob., 129; *Sullivan v. Huff*, 24 S. C., 354. Warranty of soundness.—*Limehouse v. Gray*, 3 Brev., 231; *Treadw. Const.*, 73. Generally, as to such sales.—*Farr v. Sims*, Rich. Eq. Cases, 122; *Blum v. Della Torre*, 3 Hill, 155; *Carter v. Bennett*, Riley, 287. Has no authority to rescind sale even before completed by payment of purchase money.—*Boinest v. Leignex*, 2 Rich., 464; *Carson v. Law*, 2 Rich. Eq., 296; *Hamilton v. Hamilton*, 2 Rich. Eq., 355; *Martin v. Evans*, 2 Rich. Eq., 368; *Butler v. Beard*, 5 Rich. 542; *Barrett v. Bath Paper Co.*, 13 S. C., 128; *Reagin v. Bishop*, 25 S. C., 585.

Sec. 2179. The owners of property placed in the hands of vendue masters or auctioneers, either for public or private sale, are authorized and empowered to recover from said vendue masters, in the most summary manner, before any Court of competent jurisdiction in the State, for goods or other property by them sold on account of said owners. Judgment given in such case shall not be arrested or stayed for or by reason of any error or mistake in the proceedings.

Sec. 2180. Nothing in this Chapter shall be so construed or understood as to render vendue masters or auctioneers responsible for the loss of goods or other property occasioned by the act of a public enemy, the act of God, or by any other cause which man could not prevent or foresee.

Remedy
against auc-
tioneers.Civ. '02, §
1610.Responsibility of for loss
of goods.Civ. '02, §
1611.

CHAPTER XXXVII.

Pilotage and Harbor Commission.

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| <p>Sec.</p> <p>2185. Commissioners of Pilotage to be appointed by Governor; term of office; removal from; vacancy, how filled.</p> <p>2186. Composition and qualifications of; jurisdiction; Charleston, etc.</p> <p>2187. Board of Harbor Commissioners Port of Charleston, how composed, etc.</p> <p>2188. To organize Board of Examination.</p> <p>2189. Board of Examiners.</p> <p>2190. Examination fee.</p> <p>2191. Apprentices.</p> <p>2192. Apprentices for port of Charleston.</p> <p>2193. Licenses and oath.</p> <p>2194. Bond of pilot, etc.</p> <p>2195. Board may require surrender of license; new bond; when.</p> <p>2196. Number of pilots limited.</p> <p>2197. Pilots not to engage in other business; penalties.</p> <p>2198. Discontinuing his duties, or absenting himself without leave; penalties for.</p> <p>2199. Power of Board and proceedings on charge of dereliction of duty.</p> <p>2200. May not hire out boat without leave; nor employ unlicensed person as pilot.</p> <p>2201. Duty of pilots during war.</p> <p>2202. Must offer services to nearest vessel; penalty, etc.</p> <p>2203. To convey vessels to quarantine; duties; compensation; penalty.</p> <p>2204. Pilot ground of Charleston; refusal to employ pilot; fees, etc.</p> <p>2205. Rates of fees for special services.</p> <p>2206. Exclusive rights of pilots and how forfeited; regulations as to employment of; duties and fees.</p> | <p>Sec.</p> <p>2207. No unlicensed person to act as pilot; penalty; exception.</p> <p>2208. Signal for departure of vessel; fee of pilot when de-
termined</p> <p>2209. Penalty for carrying off a pilot; proviso.</p> <p>2210. Descriptive designation of pilot boats; penalty for not numbering.</p> <p>2211. Pilots to remain aboard anchored vessels when required; pay; penalty.</p> <p>2212. Rates of pilotage of Charleston; how fixed at other ports.</p> <p>2213. When not compelled to employ a pilot.</p> <p>2214. Board to prescribe regulations.</p> <p>2215. Harbor Master to keep register of pilots and their boats; duties as to; penalty, etc.</p> <p>2216. Board to examine causes of
disasters</p> <p>2217. Fines; how collected.</p> <p>2218. Power of Board; station duty of pilot boats.</p> <p>2219. Penalty for violating rules and regulations.</p> <p>2220. Jurisdiction of Harbor Commissioners.</p> <p>2221. Annual and other meetings.</p> <p>2222. Power as to lines, wharves, docks, etc.</p> <p>2223. Penalty for obstructions in harbor, etc.</p> <p>2224. Duties as to docks.</p> <p>2225. Material excavated from harbor, etc.</p> <p>2226. Harbor Master and Port Wardens.</p> <p>2227. Fees and Port charges to be collected.</p> <p>2228. How disbursed.</p> <p>2229. Annual report to General Assembly.</p> |
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Section 2185. The Commissioners of Pilotage for the ports of Georgetown, Little River in Horry County, Beau-

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Commission-
ers of Pilot-
age to be ap-
pointed by
Governor;
term of of-
fice; removal
from; vacan-
cy; how
filled.

Civ. '02, §
1616.

Composition
and qualifica-
tion of; ju-
risdiction.

Civ. '02, §
1617.

Harbor Com-
mission of
harbor of
Charleston;
of whom to
consist.

Civ. '02, §
1618.

fort, and North and South Edisto and Stono be appointed by the Governor during the month in every second year reckoning from the month in the year 1879, and shall serve and continue the term of two years and until their successors are appointed. They may be removed from office by the Governor. When a vacancy occurs, it shall be filled by an appointment by the Governor. The appointee shall hold the office for the unexpired term unless sooner removed by the Governor.

Sec. 2186. The Commissioners of Pilotage of each port shall consist of three persons, two of whom shall have been seafaring men and one shall be a full owner of the port to which he belongs.

The Commissioners of Pilotage of Georgetown shall consist of six persons, two of whom shall be or shall have been seafaring men, one of whom shall be a full owner of the port, and three of whom shall be merchants of said port.

The Commissioners of Pilotage of Beaufort shall consist of four persons, two of whom shall be or shall have been seafaring men. They shall have jurisdiction over the port of Helena, Port Royal and all entrances to the Savannah River.

O'Brien v. DeLarrinaga, 49 S. C., 497; 27 S. E., 483.

The Commissioners of Pilotage of North and South Edisto and Stono shall consist of three persons, two of whom shall be or shall have been seafaring men, and one shall be a full owner of the port. They shall have jurisdiction over North and South Edisto and all entrances to the same.

The Board of Harbor Commissioners of Charleston shall be the Commissioners of Pilotage of the port, and may invest the sub-Committee of Pilotage of the Board with all the power and authority in relation to the pilotage and pilots of said port and all entrances thereto, and the decisions of the sub-Committee shall be final and conclusive.

Sec. 2187. The Board of Harbor Commissioners of the port of Charleston shall consist of thirteen persons, as follows: The Mayor of the city of Charleston, the President of the Charleston Chamber of Commerce, the President of the Charleston Cotton Exchange, the

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the Charleston Merchants' Exchange, the President of the Charleston Young Men's Business League, the Chairman of the Executive Committee of the State Board of Health, or if he be a resident of said city, or, if he be not such resident, some member of the Executive Committee resident of said city, to be designated by said Committee, and seven residents of the city of Charleston to be appointed by the Governor, upon the recommendation of the Senator and members of the House of Representatives from Charleston County, or a majority of them, at least two of whom shall be seafaring men, and at least one of such seafaring men shall be a full branch pilot of the port of Charleston. The Mayor of the city of Charleston shall be *ex officio* Chairman of the said Board, and the Board at its first annual meeting, or at the first meeting after the time fixed for such annual meeting, shall elect a chairman *pro tempore*, to act in the temporary absence, death, resignation or disability of the said Chairman.

Sec. 2188. The Commissioners of Pilotage for the ports other than Charleston (which port in this regard shall be governed by the provisions of Section 2189) shall, from time to time, organize a Board of Examination for the port to which they belong, to consist of three nautical men—one at least of whom shall be a full branch pilot of the port to which they belong; and the said Board shall examine each and all applicants as to his or their competency to work or manage vessels, and, generally, to discharge the duties of a pilot or pilots; and no license or branch shall be granted to any person, unless he receive the certificate of competency signed by a majority of such examining Board.

Sec. 2189. The Commissioners of Pilotage for the Port of Charleston, in similar manner, shall from time to time organize a Board of Examination for the port of Charleston, to consist of three nautical men—at least one of whom shall be a full branch pilot of the port; and the said Board shall examine each and all applicants as to his or their competency to work or manage vessels, and, generally, to discharge the duty of a pilot or pilots. All examinations for a license shall be oral and by demonstration, and shall include, among other things, the following requisites: The

Commissioners of Pilotage to organize board of examination.

Commissioners of Pilotage for Port of Charleston to organize Board of Examiners.

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ars before receiving a twelve-foot license or branch. During the last year of service it shall be the duty of their masters to take the said apprentice on board of vessels, so that they may become thoroughly competent for the discharge of their duties. They must hold a twelve-foot license or branch in service one year before receiving a fifteen-foot license or branch; hold a fifteen-foot license or branch in service one year before receiving a twenty-foot license or branch; and hold a twenty-foot license or branch in service one year before receiving a full license or branch. No apprentice, however, shall be granted a license until the number of pilots shall have fallen below fifteen; though an apprentice may, after his term of service, upon satisfactory examination by the Examining Board, receive a certificate from the Board of Pilot Commissioners entitling him to a fifteen-foot license when a vacancy should occur. Should two or more apprentices be eligible to offer for examination at the same time, the seniority of securing a license shall be determined by the proficiency of the respective apprentices, established at such examination. No apprentice shall cease to act as such for the period of three months or absent himself at any time from the Port of Charleston, except upon regular cruises, without the permission of the Board of Pilot Commissioners.

Sec. 2193. The said respective Boards of Pilot Commissioners shall give to the applicants approved by them either a limited license or branch, or a full license or branch, according as the application and discovered fitness of the applicant shall be, signed by a majority of the Examining Board, or by their Chairman, as the majority of said Board may direct, requiring of each applicant, before the delivery to him of such license or branch, to swear and subscribe the following oath, to be administered by the President of the Board, to wit: I, A B, do solemnly swear (or affirm) that I will well and faithfully, and according to the best of my skill and knowledge, execute and discharge the business and duty of a license pilot (or apprentice, as the case may be), for the bar and harbor of Charleston (Beaufort or Georgetown, North and South Edisto and Stono, as the case may be); and that I will, at all times, wind, weather, and health permitting, use my best endeavors to repair on

Licenses.
Clv. '02, §
1822.

Oath of
pilots.

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tes, furnishing stationery, and the like: *Provided*, That each account shall not exceed in one year fifty dollars.

Sec. 2195. The Boards of Commissioners of Pilotage shall have power and authority, for any cause or charge them satisfactorily proven, to order and direct any or all pilots for the port to which they belong to deliver up his license or licenses, and to take out a new license or licenses; but no pilot who shall satisfy them of the groundlessness of such cause or the falsity of such charge brought against him, shall be required to pay an additional fee for a new license. And if the said Board of Commissioners is not satisfied with the sureties on the bond executed by any licensed pilot, every pilot whose sureties shall be deemed insufficient shall give a new bond, with sureties, to be approved by the said Board of Commissioners, and within such time as shall be required by the said Board of Commissioners; in which case the pilot shall receive a new license, on surrendering the former one. And every pilot not complying with these conditions, or any of them, shall forthwith forfeit his license, and shall be disqualified to act as a pilot for the period of twelve months.

Board may require surrender of license or new bond.

Civ. '02, § 1624.

Sec. 2196. The number of pilots for the bar and harbor of Charleston shall not exceed fifteen: *Provided*, That no pilot now licensed shall hereby lose his license, but no other person shall be licensed until the number of pilots is less than fifteen. The number of pilots for the port of Beaufort shall be limited to twelve; and for the bar and harbor of Georgetown to eleven, with power to the said Commissioners of Pilotage to increase the number for the port of Beaufort to fifteen and for Georgetown to fifteen, if, in their judgment, the commerce of either of said ports shall require such increase. The number of pilots for the other ports shall be fixed by the Commissioners of Pilotage at such ports; but such limit in number shall not operate as an exclusion of any pilot who now holds a regularly issued license. The said Board shall make no distinction in the selection of pilots on account of race, color or previous conviction.

Number of pilots limited.

Civ. '02, § 1625, amended.

Sec. 2197. No pilot shall engage in any other business or calling while holding his license or branch, without the consent of the Commissioners of Pilotage first had and

Must not engage in other business.

Civ. '02, § 1626.

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id Board of Commissioners shall have the power to order the Harbor Master of the port to which he may belong to call on him for the surrender of his license. And if he shall refuse to give up the same to the Harbor Master on demand, the latter shall give notice for one week in the public daily papers that such person has no longer a right to act as a pilot until he be reinstated by the said Board of Commissioners.

As to general power of Commissioners.—*State v. Commissioners*, 23 S. C., 178; *State v. Courtney*, 23 S. C., 180. May suspend pilot for dereliction of duty not specified.—*Id.* Mandamus proper remedy to compel Board to reverse their order of suspension.—*Id.* Pilot cannot act while suspended, *de Zabalguregui v. Commissioners*, 62 S. C., 511; 40 S. E., 959.

Sec. 2200. No licensed pilot shall hire out his pilot boat to any persons or person whomsoever, unless he substitute another, to be approved of by the Board of Commissioners of Pilotage; and the Board of Commissioners shall never give such permission, unless, in their opinion, there shall be a sufficient number of boats actually engaged in the service of pilotage. Nor shall any pilot substitute or employ as a pilot any one from whom his license has been taken away or become forfeited; and any pilot herein in any wise offending shall, for each and every such offence, be deprived of his license by the said Board of Commissioners, or a majority of them; and if so deprived, he shall be proceeded against as provided in the latter part of the preceding section, and shall, moreover, forfeit and pay to the State a sum not exceeding one hundred dollars.

State v. Commissioners, 23 S. C., 178.

Sec. 2201. In case of war, no pilot shall bring in or furnish supplies to any armed vessels belonging to an enemy at war with the United States, or shall carry out any armed vessel to such enemy, without being ordered to do so by the constituted authorities of the United States. And every pilot herein in any wise offending shall forfeit his license and be disqualified forever from acting as a pilot. And if, at any time, the President of the United States, or the Governor of the State, shall prohibit the furnishing with supplies, or the bringing in, or the carrying out, of any vessel or vessels belonging to any nation or State, or to a subject or subjects of any nation or State, it shall be the

May not hire out boat without leave of Board.

Civ. '02, § 1620.

Duty of the pilots during war.

Civ. '02, § 1620.

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ard and northward; and any master or commander of a vessel bearing toward any harbor or bar (all coasters and other vessels under one hundred tons of American register excepted), who shall refuse to receive on board a licensed pilot for the said bar and harbor, offering to board, shall be liable, on his arrival at the said port, to pay such pilot who first offered to go on board and take charge of such vessel, the rates and fees allowed and established as hereinafter mentioned, as if such a pilot had actually brought in such vessel to said port. But if a pilot having a ten or twelve-foot branch or license only, as the case may be, is refused by the master of a vessel of greater draught, such master shall not be liable to him for her pilotage; and if a pilot refuse to produce his license to the master of a vessel, when the latter demands it, the fees of pilotage shall not be charged against the master rejecting the services of such pilot.

The pilotage
ground of
Charleston.

Civ. '02, §
1632, amend-
ed.

O'Brien v. DeLarrinaga, 49 S. C., 497; 27 S. E., 483.

Sec. 2205. Any pilot boarding a vessel on pilot ground shall be entitled to receive from the master, owner, or consignee, four dollars for every day of his being on board previous to her coming into port, in addition to the fees of pilotage.

When enti-
tled to fees.

Civ. '02, §
1634.

Every pilot of an inward bound vessel who shall be directed by the master to anchor in the roads, or is required by the quarantine laws to anchor and leave such vessel at the quarantine grounds and afterwards bring her up to the city or town, shall be entitled to receive four dollars from the master, owner, or consignee; also, four dollars to bring a vessel anchored in the stream (at the request of the master, owner, or consignee,) and moor her at the wharf; four dollars to unmoor (at the request of the master, owner, or consignee,) and anchor in the stream, or from the stream to the roads, to be paid as aforesaid.

Sec. 2206. The pilot who brought in the vessel shall have the exclusive right of carrying her out, unless the master or commander of such vessel shall, within a fortnight after his arrival in port, prove to the satisfaction of the Board of Pilotage Commissioners, or a majority of them, that the said pilot had misbehaved during the time

Who so en-
titled.

Civ. '02, §
1635.

A. D. 1912.

he had charge of such vessel, or unless the same have been deprived of his license before the carrying out of such vessel, in either of which cases another pilot shall be employed, who shall be entitled to receive the outward pilotage; and every pilot having or becoming entitled to carry out a vessel shall either attend in person or procure another pilot of his own degree to attend for him, on a bound vessel, after twelve hours' notice by the master of the vessel of the hoisting of his jack at the foretop mast-head; and if such pilot shall not attend in person nor substitute another pilot of equal license with himself, the master of such vessel shall be liable after the expiration of the above limited space to employ another pilot of equal license, who shall be entitled, if not previously engaged, to carry such vessel out, and shall be entitled to the outward pilotage; and a vessel shall carry out a vessel, not being entitled to the outward pilotage, shall be liable to the pilot who had the right in the vessel to the pilotage paid or due for carrying her out; and a vessel who brought in a vessel shall have a right to the outward pilotage and fees of pilotage and the lawful charges as aforesaid on her departure from port; and whenever a pilot has the right to carry out a vessel is apprehensive that the outward pilotage may not be paid by her master, owner, or consignee, he shall have a right to demand his fees and charges or such security for the payment thereof as shall be deemed reasonable and satisfactory, and on failure thereof shall be entitled to carry her out.

No
licensed
to act.

unli-
pilots

Sec. 2207. No person shall be authorized or permitted to conduct and pilot any vessel over the bar, when entering or going out of port, unless such person shall have a license as aforesaid; and every person not having a license, or having forfeited the same, or being otherwise disqualified thereof as aforesaid, who shall presume to bring out or carry out of the aforesaid port, any vessel without a license, shall cross the bar, as well as every pilot having a license of less than ten or twelve feet, who shall presume to pilot a vessel of more than ten or twelve feet draft, shall be liable, may be, over the said bar, either in coming in or going out, shall be entitled to no fee, gratuity, or reward for such service, but shall pay the regular pilotage to the pilot who

A. D. 191

offer, and shall also be liable to a fine of one hundred dollars, or imprisonment for not more than thirty days, or be suspended: *Provided, however,* That the foregoing prohibition shall not extend to prevent any person from assisting any vessel in distress without a pilot on board, if such person shall deliver up such vessel to the first pilot who shall afterwards come on board and offer to conduct such vessel; and also that the captain and crew of a vessel shall not be liable to such fine for conducting her over the bar without the aid of a pilot, if in either of the two last mentioned cases a signal for a pilot is worn.

Sec. 2208. Every master of an outward bound vessel shall at the appointed time of his departure have his vessel in readiness for sailing, and as a signal thereof hoist a jack at the foretop mast-head; and every master of a vessel who shall detain a pilot at the time appointed, so that he cannot proceed to sea, though wind and weather, should permit, shall pay to such pilot four dollars per day during the time of his actual detention on such vessel.

Signal of
departure
vessel.Civ. '02,
1637.

Sec. 2209. If any master or commander of a vessel shall carry off any of the pilots, he shall allow every such pilot four dollars for each and every day during his absence, and supply him with provisions and other necessities in the same manner as is usual for the maintenance and accommodation of masters of vessels; and the master, as well as the owner, consignee, and security of such vessel, shall be liable for the aforesaid sum: *Provided, however,* That no pilot who is carried off as aforesaid shall be entitled to any of the sums aforesaid, if such vessel shall have laid to for the space of sixteen hours after having crossed the bar, and no pilot boat shall have appeared at the time to receive such pilot on board: *Provided, also,* That the master, owner, or consignee, shall defray the expenses of such pilot back to port to which he may belong.

Penalty for
carrying off
pilot.Civ. '02,
1638.

Sec. 2210. All boats used in the pilotage for the port and harbor of Charleston shall be of schooner rig, and not less than sixty-eight feet over all; and before being admitted into service, and at all times thereafter, shall be entirely and absolutely subject to the inspection, direction and approval of the Board of Pilotage Commissioners for Charleston. No pilot boat shall be commissioned and used

What kind
of boats may
be used
as pilot boats
in Charleston
harbor.

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Rates of
pilotage.

Rates of Pilotage—Not more than the following amounts:

For six feet of water or under, fifteen dollars; for seven feet of water or under, sixteen dollars; for eight feet of water or under, eighteen dollars; for nine feet of water or under, twenty-one dollars; for ten feet of water or under, twenty-eight dollars; for eleven feet of water or under, thirty-three dollars; for twelve feet of water or under, forty dollars; for twelve and a half feet of water or under, forty-four dollars; for thirteen feet of water or under, forty-five dollars; for thirteen and a half feet of water or under, fifty dollars; for fourteen feet of water or under, fifty-four dollars; for fourteen and a half feet of water or under, sixty dollars; for fifteen feet of water or under, sixty-six dollars; for fifteen and a half feet of water or under, sixty-nine dollars; for sixteen feet of water or under, eighty-four dollars; for sixteen and a half feet of water or under, one hundred dollars; for seventeen feet of water or under, one hundred and ten dollars; for seventeen and a half feet of water or under, one hundred and twenty dollars; for eighteen feet of water or under, one hundred and thirty dollars; for eighteen and a half feet of water or under, one hundred and forty dollars; for nineteen feet of water or under, one hundred and fifty dollars; for nineteen and a half feet of water or under, one hundred and sixty dollars; for twenty feet of water or under, one hundred and seventy-five dollars; for twenty and a half feet of water or under, one hundred and ninety dollars; for twenty-one feet of water or under, two hundred and five dollars; for twenty-one and a half feet of water or under, two hundred and twenty dollars; for twenty-two feet of water or under, two hundred and thirty-five dollars; for twenty-two and a half feet of water or under, two hundred and fifty dollars; for over twenty and a half feet of water, fifteen dollars additional for each and every additional six inches of water under which said vessel may draw; for taking a vessel around to Ashley River, if requested by the master, eight dollars; for taking letters from the city of Charleston to vessels outside of the bar and waiting orders and delivering them on board, the amount of inward pilotage of such vessel's draught. The rates of pilotage for the outer ports shall be fixed by the

A. D. 191

erusing it at the said office, without charging or being allowed to charge any fee or perquisite for any or either of the aforesaid services; and for every neglect of duty on the premises the said Harbor Master shall be liable to a fine of not exceeding fifty dollars, to be imposed by the said Board of Pilotage Commissioners, or a majority of them.

Sec. 2216. It shall be the duty of the Board of Pilotage Commissioners, on the occasion of any marine disaster to any vessel in charge of a licensed pilot, to make a careful examination of the cause or causes of such disaster, by immediately summoning before them the pilot in charge of the vessel, and obtaining such testimony from the parties interested, or not, as the case may be, in their power. And the result of such investigation shall be placed upon record, copies of which shall be furnished, when desired, at the expense of the applicant. The marine reports of the daily papers, or private information, shall be deemed sufficient cause for such investigation by the said Board of Commissioners.

Board to examine cause of disaster.

Civ. '02, 1645.

Sec. 2217. Each and every fine, forfeiture, and penalty, for each and every offence under this Chapter, or any part, clause, or article thereof, shall be prosecuted, sued for, and recovered in any Court of competent jurisdiction, for the use of the State; and the penalties imposed in this Chapter may in every case be recovered, although the Board of Pilotage Commissioners may not think proper to deprive any licensed pilot liable thereto, or in default, of his license in any instance herein authorized.

Fines: to be collected.

Civ. '02, 1646.

Sec. 2218. The Board of Commissioners of Pilotage for the Port of Charleston shall have the power, and are authorized, to establish station boats on the bar of Charleston. Each regular licensed pilot boat for the harbor and bar of Charleston shall perform and keep station duty, unless prevented by stress of weather, at or near the bar of Charleston, alternately, for six days each, whenever it becomes the turn of such said pilot boat to perform the same, or to furnish as a substitute another licensed pilot boat, under penalty of fifty dollars for each day's offence; said pilot boat to be in charge of a full branch licensed pilot for the

Power of Board; station duty pilot boats.

Civ. '02, 1647.

Station.

A. D. 1912.

and such other stated or special meetings as they may for themselves determine.

Sec. 2222. The said Board shall have power to fix the lines along the said bay and harbor, and rivers and creeks, within which riparian owners may erect wharves, docks, and other proper erections and fixtures for commercial, manufacturing, or any other purposes. The said Board, or majority of them, shall have authority to cause the removal of any wharf, dock, wreck, or other obstruction to navigation, or that may, in their opinion, be injurious to the said bay, harbor, rivers, or creeks, at the expense of the owner or owners, or the parties causing the obstructions: *Provided*, that the rights of any owner or owners of wharves whose lines have heretofore been fixed by grant, or by authority of State legislation, are in no wise to be disturbed.

Powers of
as to lines,
wharves,
docks, etc.

Civ. '02, §
1651.

Provided.

Sec. 2223. No person or persons shall hereafter build any wharf or other obstruction beyond the lines fixed by the said Board, except where the lines of such wharf have heretofore been fixed by any grant, or by authority of State legislation; and any person or persons doing this shall pay the sum of twenty dollars for every such offence, and shall moreover be liable in the sum of twenty dollars for every day such wharf or other obstruction shall remain. And no person or persons shall hereafter build or extend any wharf or other obstruction in or upon the waters of the bay or harbor of Charleston, or the rivers or creeks flowing therein, without first obtaining, in writing, from said Board, a permit for so doing, except where the lines of such wharf have heretofore been fixed by any grant, or by authority of State legislation, under a penalty of twenty dollars for every day such wharf or obstruction shall remain; and it shall be the duty of said Board to prosecute for the fines and penalties imposed in Sections 2221 to 2229.

Penalty for
building
wharves, etc.

Civ. '02, §
1652.

Wharves and
other obstruc-
tions not to
be built with-
out authority.

Penalty for
violation.

Sec. 2224. It shall be the duty of the said Board of Harbor Commissioners to examine, or cause to be examined, the docks, public or private, upon the waters of the said bay and harbor, and the rivers and creeks flowing therein; and when it is the opinion of said Board, or a majority of them, that such docks are not in a proper condition for the purposes for which they were designed and used, they shall cause a notice to be served upon the owner or occupier of

Harbor Com-
missioners.

Civ. '02, §
1653.

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Duties of as
to docks, pub-
lic or private.Owners of
docks liable
to fine for
neglect.Deposit of
excavated ma-
terial.Civ. '02, §
1654.Penalty for
violation.Harbor Mas-
ter and Port
Wardens.Civ. '02, §
1655.Fees and port
charges.Civ. '02, §
1656.

said dock, and they shall deepen the same. If the owner or occupier shall neglect or refuse to do so, after thirty days' notice, such person shall forfeit and pay twenty dollars, and the sum of five dollars for every day he, she, or they shall neglect or refuse, and shall, moreover, pay all expenses by reason of such neglect or refusal; and it shall be the duty of the said Board to prosecute for such penalties.

Sec. 2225. Hereafter, when any dredging shall be done in the said bay and harbor, river or the docks thereon, the material excavated shall be deposited only at such place or places as may be designated by the said Board, under such penalty not exceeding the amount prescribed in Section 2220, as the said Board may prescribe.

Sec. 2226. The said Board of Harbor Master and Port Wardens shall have power to elect or appoint annually a Harbor Master and such number of Port Wardens as may be necessary for the bay and harbor and the rivers and creeks flowing therein, and assign the duties of such Harbor Master and Port Wardens under the rules and regulations for the management of vessels within or entering into the said waters, or any of them, and for their safe and proper use of said waters, and regulate their conduct, and have power to remove them, or any of them, at the discretion of the said Board.

Sec. 2227. The said Board of Harbor Master and Port Wardens shall be, and are hereby, invested with full authority to levy and collect from all vessels entering and using the port of Charleston such fees and port charges, not inconsistent with law, as may be necessary to pay the said Harbor Master and Port Wardens for the services required to defray the necessary expenses attendant upon the performance of the duties devolved upon the said Board. Sections 2220 to 2227 in relation to the regulation of the safety and convenience of vessels entering the waters, or any of them.

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ec. 2228. All fees, harbor or port charges, fines, and penalties collected under the provisions of Sections 2220 to 2227, shall be paid over to the said Board of Harbor Commissioners, and be disbursed by the said Board in paying the salaries of the Harbor Master and Port Wardens, and such other officers as the said Board may see fit to appoint to facilitate the discharge of the duties imposed by this Chapter, and such other expenses as may be incident to said duties.

Fees, harbor or port charges, fines and penalties, to whom paid and how disbursed.

Civ. '02, § 1657

ec. 2229. The said Board of Harbor Commissioners shall annually report to the General Assembly the amounts received for fees, harbor or port charges, fines, and penalties, and the disbursement thereof, and also generally its doings and doings.

Shall report annually to the General Assembly.

Civ. '02, § 1658.

A. D. 1912.

CHAPTER XXXVIII.

Money; Interest; Bills of Exchange and Pro
Agency.ARTICLE I. *Money; Interest.*ARTICLE II. *Bills and Notes.*ARTICLE III. *Agency.*

ARTICLE I.

MONEY—INTEREST.

Sec.

2230. Public accounts and verdicts to be expressed in dollars, etc.

2231. Rates of interest on judgments, accounts stated, etc.

2232. Contracts secured by mortgages on real estate to be governed by law of this State as to interest.

2233. Rate of in

2234. Penalties

2235. Who may

2236. Usury not ration in

Dollars,
dimes, cents
and mills.Civ. '02, §
1659.

Section 2230. All accounts in the public State, the verdicts of juries on all contracts, and of public officers, shall be expressed in dollars, dimes or tenths, cents or hundredths, and sandths; a dime being the tenth part of a dollar, and a mill the hundredth part of a dollar, and a mill the part of a dollar.

Decrees and
judgment to
draw interest.Civ. '02, §
1660.

Sec. 2231. In all money decrees and judgments enrolled or entered, in all cases of accounts and all cases wherein any sum or sums of money are retained, and, being due, shall draw interest according to the legal interest shall be at the rate of seven per annum.

Seven per cent. in the absence of special agreement.—1 B. C., 19; 17 B. E., 358.

Agreement for higher rate must be in writing.—Bank v. 175; 17 B. E., 592; Bank v. Parrott, 30 B. C., 175; 8 B. E.

As to decrees and judgments.—Lumpkin v. Nance, 2 Bre Manning, 2 N. & McC., 395; Rochelle v. Campbell, 1 McC. v. Ancrum, 1 McC. Ch., 100; Thomas v. Wilson, 3 McC., 1 Broughton, 4 McC., 212; Harrington v. Glenn, 1 Hill,

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ry, 2 Hill, 352; *Cronther v. Sawyer*, 2 Speer, 573; *Daub v. Martin*, 2 S. E., 193; *Pinckney v. Singleton*, 2 Hill, 343. Decreed on sum assessed for ality of partition.—*Craig v. Craig*, Bail. Eq., 102. Purchaser at judicial sale may be required to pay 8 per cent. on deferred payments.—*Association v. Bell*, 55 S. C., 316; 33 S. E., 355. Attorneys' fees after being placed in judgment bear interest.—*Id.* Costs and disbursements bear interest after being placed in judgment.—*Johnson v. Masters*, 49 S. C., 525; 27 S. E., 474; *Hison v. Sufette*, 60 S. C., 58; 33 S. E., 229.

As to accounts stated.—*Dickenson v. Legare*, 1 Dess., 537; *Knight v. Chell*, 3 Brev., 506; *Farrand v. Bouchell*, Harp., 83; *Chisholm v. Neyle*, 100, 274; *Furman v. Peay*, 2 Bail., 894; *Smets v. Kennedy*, Riley, 218; *Edward v. Searson*, 1 Speer, 249; *Trenholm v. Bampfied*, 3 Rich., 376; *Rich v. Washington*, 3 Rich., 380; *Johnson v. Bennett*, 1 Speer, 209.

Not recoverable on open or book accounts, without special agreement, or any unliquidated demand previous to finding of jury.—*Skirving v. Stobo*, 100, 233; *Edwards v. Dargan*, 30 S. C., 177; 8 S. E., 358; *Holmes v. Missa*, 1 Treadw. Const., 21; *Schemerhorn v. Perman*, 2 Bailey, 173; *Ordinary Bonnell*, 2 Hill, 468; *Bishop v. Ross*, 21.

As to sums ascertained and due.—*Grimke v. Grimke*, 1 Dess., 366; *Bowles Drayton*, 1 Dess., 489; *Holmes v. Bigelow*, 3 Dess., 497; *Harrison v. Long*, 100, 110; *Bulow v. Goddard*, 1 N. & McC., 45; *Barelli v. Brown*, 1 McC., 100; *Elliott v. Minott*, 2 McC., 125; *Ryan v. Baldrick*, 3 McC., 498; *Conyers Magrath*, 4 McC., 392; *Black v. Goodman*, 1 Ball., 201; *Sitter v. Robinson*, 100, 274; *Wardlaw v. Gray*, Dud. Eq., 85; *Marvin v. McRae*, Cheves, 61; *Turn v. Sloane*, 2 Speer, 594; *Smith v. Godbold*, 4 Strob. Eq., 186; *Mundy v. Barnwell*, 7 Rich., 124; *Kimbrell v. Glover*, 13 Rich., 191; *Arnold House*, 12 S. C., 608; *Childs v. Fraxee*, 15 S. C., 612; *Witte Bros. v. Ark*, 17 S. C., 328; *Sullivan v. Sacong*, 30 S. C., 306; 9 S. E., 156; *Garton v. Copeland*, 32 S. C., 57; 10 S. E., 616; *Railway Co. v. Greenville*, 30 S. C., 499; 27 S. E., 652; *Greer v. Latimer*, 47 S. C., 185; 25 S. E., 136.

Money paid.—*Thompson v. Stevens*, 2 N. & McC., 493.

Bonds.—*Surety Company*, *Murray v. Aiken M'fg. Co.*, 39 S. C., 457; 18 S. E., 5; *Replevin*, *Hart v. Tobias*, 2 Bay, 408.

Unwritten.—*Stevenson v. Axson*, 1 Bailey Ch., 274; *Irby v. McCrae*, 4 DeS., 100.

From maturity of debt.—*Kinard v. Glenn*, 29 S. C., 590; 3 S. E., 203.

Not recoverable against surety.—*Sloan v. Gibbs*, 36 S. E., 406; 56 S. C., 100.

Balances on accounts of Trustees, etc.—*Tucker v. Richards*, 59 S. C., 22; 3 S. E., 3; *Gee v. Humphries*, 49 S. C., 253; 27 S. E., 101; *Cunningham v. Sten*, 44 S. C., 95; 21 S. E., 800; *Nicholson v. Whitlock*, 57 S. C., 36; 36 S. E., 412; *Black v. Blakely*, 2 McC. Ch., 1; *Wright v. Wright*, *Id.*, 185; *Caw v. Blewit*, *Id.*, 90; *Myers v. Myers*, *Id.*, 214; *Rowland v. Best*, *Id.*, 100; *Edwards v. Crenshaw*, Harp. Eq., 24; *Howard v. Schmidt*, Rich. Eq., 452; *Dixon v. Hunter*, 3 Hill, 204; *Patterson v. Clawson*, 4 Rich. Eq., 100; *Baker v. Lafitte*, 4 Rich. Eq., 392; *Crosby v. Crosby*, 1 S. C., 337; *Idverson v. Wells*, 8 S. C., 347; *Johnson v. Henegan*, 11 S. C., 93; *Koon v. Arce*, 11 S. C., 140; *Davis v. Wright*, 2 Hill, 560; *Dixon v. Distributees*, 3 S. C., 204.

The following five paragraphs from the monograph on annual interest, by Hon. Silas Johnstone, late of Newberry, at page 165 of Appendix to his Digest, is a concise summary of the law in relation to the subject:

1. The rate of interest prescribed by law attaches to a debt after it becomes due, unless by the terms of the contract, expressed or necessarily implied, the rate fixed on its face is to continue after the maturity of the contract.—*Anderson v. Laurens*, 2 DeS. Eq., 170; *Gallard v. Ball*, 1 Nott & McC., 67; *Ingston v. E. R. Co.*, 2 S. C., 248; *Bell v. Bell*, 25 S. C., 149; *Briggs v. Smith*, 10 S. C., 133; *Maner v. Wilson*, 16 S. C., 470; *Carolina Savings Bank v. Parrott*, 30 S. C., 66; 3 S. E., 199; *Smith v. Smith*, 33 S. C., 210; 3 S. E., 761; *Sharpe v. Lee*, 14 S. C., 341; *Kennedy v. Boykin*, 35 S. C., 61;

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Hoffman, 50 S. C., 303; 27 S. E., 692; Turner v. Ass'n., 51 S. C., 38; 27 E., 947; Carpenter v. Lewis, 60 S. C., 23; 38 S. E., 244; Equitable B. & Ass'n. v. Corley, 72 S. C., 404; 52 S. E., 48. Contract construed according law of State where it was to be performed.—Meares v. Finlayson, 55 C., 105; 32 S. E., 986; Tobin v. McNab, 58 S. C., 73; 30 S. E., 827; Carter v. Lewis, 60 S. C., 23; 38 S. E., 244. See also Quince v. Carpenter, DeS., 160. As to remedy and relief to be afforded, if the contract isurious, the *lex fori* prevails.—Meares v. Finlayson, 55 S. C., 118; 32 E., 896; Carpenter v. Lewis, 60 S. C., 23; 38 S. E., 249.

Sec. 2233. No greater interest than seven (7) per cent. ^{Interest reg}
er annum shall be charged, taken, agreed upon or allowed ^{ulated.}
upon any contract arising in this State for the hiring, lend- ^{Civ. '02, 1}
ing or use of money or other commodity, either by way of ^{1662.}
straight interest, discount or otherwise, except upon written
contracts, wherein, by express agreement, a rate of interest
not exceeding eight per cent. may be charged.

Plyler v. McGee, 76 S. C., 451; 57 S. E., 180; Ehrhardt v. Varn, 51
C., 550; 29 S. E., 225.

Sec. 2234. Any person or corporation who shall receive, ^{Usury.}
r contract to receive, as interest any greater amount than ^{Civ. '02,}
provided for in the preceding Section shall forfeit all ^{1663.}
interest, and the costs of the action and such portion
f the original debt as shall be due shall be recovered
without interest or costs, and where any amount so charged
r contracted for has been actually received by such person
r corporation, he or she, or they shall also forfeit double ^{Penalty for}
he total amount received in respect of interest, to be col- ^{receiving mor}
lected by a separate action or allowed as a counter claim in ^{than legal in}
ny action brought to recover the principal sum. ^{terest.}

Party receiving usury, honestly believing in his right to do so, is
able to the penalty.—Plyler v. McGee, 76 S. C., 451; 57 S. E., 180.
Compound interest; usury.—Earle v. Owings, 72 S. C., 366; 51 S. E., 980.
Receipt through mistake of fact.—Rushton v. Woodham, 68 S. C., 110; 46
E., 943. "Contracting to receive."—Strait v. British and American Mort-
gage Co., 77 S. C., 367; 57 S. E., 1100.

Sec. 2235. The borrower, and his heirs, devisees, legatees ^{Who may}
r personal representative, or any creditor or any person ^{plead usury.}
aving a legal or equitable interest in the estate or assets ^{Civ. '02,}
f such borrower, may plead the benefit of the provisions of ^{1664.}
he preceding Section as plaintiff or defendant and the
ame shall be effectual at any suit at law, or in equity, and
ny person offending against the same shall be com-
elled to answer, on oath, any complaint that may be exhib-
ed against him for the discovery of any sum of money or
nings in action, so charged, agreed upon, reserved or taken,

in violation of the
The provisions of t
shall not apply to
of March, 1898.

Usurious Contracts.—E
contract for sale of land.
786; 27 L. R. A., 569, at
v. Nesbit, 2 Rich., 73; Bu
v. Winn, 45 S. C., 381; 2
bia Ass'n. v. Bollinger,
assessed on loan in addi
Pritchard, Bail. Eq., 503
principal, exacts from be
the interest charged, exc
usurious.—Brown v. Bro
pany v. Gillam, 49 S. C.,
S. C., 81; 21 S. E., 444.
Savings Bank v. Strother
from its real to nominal
307. Forbearance of pre
ler, 1 Strob., 466. As to
A note given to secure in
est thereon.—Caughman
Harp., 407. A sale of sto
much above par, in order
2 De8., 334. Sale of not
set, Harper, 81. A bond
raising money and discou
376; Cantey v. Blair, 1 R
v. Woodruff, 1 Rich., 1; F
McC., 350; Quarles v. Br

Not Usurious.—A decr
judicial sale to bear inter
33 S. E., 355. A contrac
lender should not exceed
Thompson v. Gillson, 28
316; 33 S. E., 355; Turn
Bryan, 44 S. C., 121; 21
of interest to be paid in
199, or bear interest at as
182; 32 S. E., 535. Dis
year.—Merchants, etc., B
of note given for valuable
v. Milligan, 2 McC., 178;
McC., 402. A verbal agr
Cavender, 31 S. C., 282;
Witte v. Weinberg, 37 S. C.
22 S. C., 370. An agreem
sum on long time.—Whee
Building and Loan Cont
interest on loan.—Ass'n. v
a period anterior to date
Dickson v. Segulner, 3 Br
payments and interest on
Use of mortgaged property
171. Other instances.—E
345. The lender will not
the ground of mistake, sh
1 S. C., 157; Thompson v

8; *Bank v. Parrott*, 300 S. C., 68; 8 S. E., 199; *Mitchell v. Bailey*, 57 S. C., 345; 35 S. E., 581; *Ptyler v. McGee*, 76 S. C., 450; 57 S. E., 180. It not so under former Statute.—*Mortimer v. Pritchard*, Bailey Eq., 505.

Equitable owner of land may plead usury.—*Cunningham v. Cunningham*, S. C., 515; 62 S. E., 845.

Discounting at 8 per cent. when contract did not provide for that rate.—*Bank v. Sarratt*, 77 S. C., 141; 57 S. E., 621. Building and Loan contract void usurious in *Cunningham v. Cunningham*, 81 S. C., 515; 62 S. E., 845.

Action against a national bank under Act of Congress for receiving usurious interest.—*Garfunkle v. Bank of Charleston*, N. B. A., 79 S. C., 404; 57 S. E., 942.

Receipt of usurious interest on contract prevents lender from collecting more than principal sum lent without interest or costs; but debtor is not entitled to have all payments of interest applied to principal.—*Butler v. Butler*, 62 S. C., 165; 40 S. E., 138; *Bird v. Kendall*, 62 S. C., 178; 40 S. E., 142.

Application of payments on contract with an insolvent building and loan company.—*Butler v. Butler*, *supra*.

Usury must be pleaded.—*Butler v. Butler*, *ib.*

Presumption that contract is solvable under laws of State in which it is made payable may be rebutted by other evidence.—*Galletley v. Strickland*, 1 S. C., 394; 54 S. E., 576.

Usurious contract of foreign building and loan association.—*Galletley v. Strickland*, *ib.*; *Association v. Rice*, 68 S. C., 238; 47 S. E., 63.

Usurious contract and remedy under Act of 1882.—*Earle v. Owings*, 72 S. C., 362; 51 S. E., 980.

Legal Effect on Contract.—Only amount lent to be recovered, under former acts, without interest or costs.—*Gilliland v. Phillips*, 1 S. C., 157; *Pelzer, Rodgers & Co. v. Steadman*, 22 S. C., 291; *Hardin v. Trimmer*, 27 S. C., 10; 3 S. E., 46; *Bank v. Parrott*, 30 S. C., 66; 8 S. E., 199; *Brown v. Brown*, 38 S. C., 173; 17 S. E., 452. Also without attorneys' fee stipulated or in contract.—*Mortgage Co. v. Gilliam*, 49 S. C., 345; 26 S. E., 990. Where contract was not usurious in its inception the penalties may be incurred by subsequently charging and receiving usurious interest.—*Ehrhardt v. Varn*, 51 S. C., 550; 29 S. E., 225. Under former statute usurious contracts were void.—*Payne v. Tresvant*, 2 Bay, 23; *Solomons v. Jones*, 1 Treadw., 144; 3 Brev., 54; *Moncure v. Dermott*, 13 Peters, 345; *Magwood v. Duggan*, 1 Hill, 182; *Gatlliard v. LeSeigneur*, 1 McMull, 225; *Brummer v. Filka*, 2 McC., 178; *Flemming v. Mulligan*, *ib.*, 173; but a contract will not be declared void as usurious at instance of the lender.—*Müller v. Kerr*, 1 Bailey, 4. Nor will usurious acts subsequent to creation of contract affect innocent purchasers.—*Folts v. Mey*, 1 Bay, 486; *King v. Johnson*, 3 McC., 65. But an endorser might become liable thereon by reason of fraudulent representations.—*Odell v. Cook*, 2 Bail, 59.

As a Defense.—Must be specially plead.—*Pelzer v. Morris*, 56 S. C., 88; 34 S. E., 22; *Campbell v. Linder*, 50 S. C., 169; 27 S. E., 848; *Bank v. Miller*, 9 S. C., 175; 17 S. E., 592; *ex parte Monteith*, 1 S. C., 232. But not under former statute where contract was void.—*Solomons v. Jones*, 3 Brev., 54; Treadw., 144.

Answer held sufficient to raise plea.—*Harrell v. Parrott*, 45 S. C., 611; 3 S. E., 946.

May be plead by one of several joint contractors.—*Bank v. Jackson*, 43 S. C., 86; 20 S. E., 786; 27 L. R. A., 278. Under the Act of 1777 (4 Stats., 63), the privilege of pleading usury extended to all parties from whom it was demanded.—*Phillip v. Caldwell*, 2 Rich., 2. Who may not plead.—*Jeffries v. Allen*, 29 S. C., 501; 7 S. E., 828.

As a Counter Claim for Penalty.—Statutes of Limitations has no application.—*Mortgage Co. v. Gilliam*, 49 S. C., 359; 26 S. E., 990; 29 S. E., 203; *Allen v. Petty*, 59 S. C., 243; 36 S. E., 586; *Earle v. Owings*, 72 S. C., 362; 51 S. E., 980. Payments on contracts prior to statute.—*McCown v. McCown*, 29 S. C., 130; 7 S. E., 45. Can only be interposed in an action for

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Section 2237. All notes in writing that shall be made and signed by any person or persons, body politic or corporate, or by the servant or agent of any corporation, banker, goldsmith, merchant, or trader, who is usually intrusted by him, her, or them, to sign such promissory notes for him, her, or them, whereby such person or persons, body politic and corporate, his, her, or their servant or agent, as aforesaid, doth or shall promise to pay to any other person or persons, body politic and corporate, his, her, or their order, or unto bearer, any sum of money mentioned in such note, shall be taken and construed to be, by virtue thereof, due and payable to any such person or persons, body politic and corporate, to whom the same is made payable; and also every such note payable to any person or persons, body politic and corporate, his, her, or their order, shall be assignable or endorsable over, in the same manner as inland bills of exchange are or may be, according to the custom of merchants; and the person or persons, body politic and corporate, to whom such sum of money is or shall be by such note made payable, shall and may maintain an action for the same, in such manner as he, she, or they might do upon any inland bill of exchange, made or drawn according to the custom of merchants, against the person or persons, body politic and corporate, who, or whose servant or agent, as aforesaid, signed the same; and any person or persons, body politic and corporate, to whom such note that is payable to any person or persons, body politic and corporate, his, her, or their order, is endorsed or assigned, or the money therein mentioned, ordered to be paid by endorsement thereon, shall and may maintain his, her, or their action for such sum of money, either against the person or persons, body politic and corporate, who, or whose servant or agent, as aforesaid, signed such note, or against any of the persons that endorsed the same, in like manner as in cases of inland bills of exchange. And in every such action the plaintiff or plaintiffs shall recover his, her, or their damages and costs of suit; and if such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, defend-

Promissory
notes in a
negotiable &
assignable.

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ant or defendants, respectively, recovering, execution for such damages and costs.

The making of one's mark a sufficient signature.—*Gen. Brev.*, 87; *Paisley v. Snipes*, *Id.*, 200; *Shiver v. Johnson*, *Id.*

Second signer's liability.—*Ives v. Pickett*, 2 *McC.*, 271.

Where payee signs as maker.—*Glenn v. Simms*, 1 *Rich.* Clark, 8 *Strob.*, 281; *Devore v. Mundy*, 4 *Strob.*, 15.

No precise form of words is necessary to constitute prom unconditional written promise sufficient.—*Pepoon v. Stag* 102; *Woodfork v. Leslie*, 2 *Id.*, 585; *Mordecai v. Gadader* *Hammett v. Brown*, 44 *S. C.*, 397; 22 *S. E.*, 482.

As to necessity of words order or bearer.—*Pratt v. The* As to words value received.—*Hubble v. Fogartie*, 8 *Rich.* 1

v. Gains, 2 *Const.*, 339; *Chappel v. Proctor*, *Harp.*, 49. As

Frampton v. Dudley, 1 *N. & McC.*, 128; *Browne v. Depau*, 1

land v. Simons, 4 *Rich.*, 338; *Wiltbous v. Ludecus*, 5 *Rich.*

Berkeley, 5 *Rich.*, 587; *Hanks v. Dunlap*, 10 *Rich. Eq.*, 1

only relates to notes for payment of money.—*Peay v. Pick*

254; *Wallace v. Dyson*, 1 *Speer*, 127. Contingency as to th

Wiggins v. Vaught, *Cheves*, 91; *Coggeshall v. Coggesha*

Wingo v. McDowell, 8 *Rich.*, 446. Payment of hire for

etc.—*Barnes v. Gorman & Ling*, 9 *Rich.*, 297. Effect of b

current exchange on negotiability.—*Read v. McNulty*, 12 *Rich.*

A cheque is substantially an inland bill of exchange.—

Dowell, 2 *N. & McC.*, 251. An endorsement on bond.—*F*

Bay, 66. Foreign bill drawn on person in another State.—

1 *Const.*, 100; *Bank v. Steinmetz*, 1 *Hill*, 44. Instruments

of makers.—*Rambo v. Metz*, 5 *Strob.*, 108; *Keith v. Keith*,

Instruments to alternative payees.—*Ellis v. McLemore*, 1 *B*

ment payable at death of maker.—*Carter v. King*, 11 *Rich.*, 1

ble in "paper medium."—*Lange v. Kohne*, 1 *McC.*, 115. Fertil

v. Joyner, 25 *S. C.*, 123. Paper executed in blank.—*Carson*

76. A note is not a formal instrument in which a man

required to express her intention to bind her separate es

Tindal, 40 *S. C.*, 529; 19 *S. E.*, 137. Sealed notes are spec

ham v. Smith, *Harp. Eq.*, 91; *Giles v. Mauldin*, 7 *Rich. L.*,

ment under corporate seal may be negotiable.—*Bank v. R.*

156.

Action on last note or check.—*Smith v. Nelson*, 83 *S. C.*

261.

Joint maker on renewal note.—*Bank of Spartanburg v.*

225; 55 *S. E.*, 529.

Innocent purchaser before maturity.—*Spencer National*

Mills, 74 *S. C.*, 76; 53 *S. E.*, 951.

Presumption that drawer knows signature of drawee.—

Bank of Orangeburg, 74 *S. C.*, 180; 54 *S. E.*, 204.

Name of payee not essential in negotiable note.—*Fretw*

S. C., 531; 59 *S. E.*, 639.

Commercial
aper provid-
is for cost of
ollection not
o be deemed
on-negotia-
le.

1903, XXIV,
9.

Sec. 2238. That commercial paper hereafter

not be deemed non-negotiable by reason of co

visions providing for cost of collection and att

not paid when due, or drawn with exchange

collection, which in all other respects is negot

Note dated in 1901 containing provision for 10 per cent.

case of collection is non-negotiable.—*Green v. Spire*, 71 *S. C.*

554; see *Machine Co. v. Badham*, 81 *S. C.*, 63; 61 *S. E.*, 103

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Sec. 2239. In case, upon presenting of any inland bill or bill of exchange, the party or parties on whom the same shall be drawn shall refuse to accept the same, the party to whom the said bill or bills are made payable, his servant, agent, or assigns, may and shall cause the said bill or bills to be protested for non-acceptance, as in case of foreign bills of exchange.

Inland bills of exchange to be protested if not paid.

Civ. '02, § 1666.

Bank v. Steinmets, 1 Hill, 44.

Sec. 2240. No acceptance of any such inland bill of exchange shall be sufficient to charge any person whatsoever, unless the same be underwritten or endorsed in writing thereupon; and if such bill be not accepted by such underwriting or endorsement in writing, no drawer of any such inland bill shall be liable to pay any costs, damages, or interest thereupon, unless such protest be made for non-acceptance thereof, and, within fourteen days after such protest, the same be sent, or otherwise notice thereof be given, to the party from whom such bill was received, or left in writing at the place of his or her usual abode; and if such bill be accepted, and not paid before the expiration of three days after the said bill shall become due and payable, then no drawer of such bill shall be compellable to pay any costs, damages, or interest thereupon, unless a protest be made and sent, or notice thereof be given, in manner and form above mentioned. Nevertheless, every drawer of such bill shall be liable to make payment of costs, damages, and interest upon such inland bill, if any one protest be made of non-acceptance or non-payment thereof, and notice thereof be sent, given, or left, as aforesaid.

Endorser not to be held unless protest is made.

Civ. '02, § 1667.

As to acceptance.—*Brasier v. Chappell*, 2 Brev., 107; *Sutcliffe v. McDowell*, 2 N. & McC., 251; *Lilly v. Miller*, 2 N. & McC., 257; *Edwards v. Moses*, 2 N. & McC., 433; *Strockhecker v. Cohen*, 1 Speer, 349; *Walker v. Lyde*, 1 Rich., 249.

As to protest.—*Lang v. Brailsford*, 1 Bay, 222; *Fotheringham v. Price*, 1 Bay, 291; *Winthrop v. Pepoon*, 1 Bay, 468; *Payne v. Winn*, 2 Bay, 374; *Fleming v. McClure*, 1 Brev., 428; *Duncan v. Course*, 1 Mill, 100; *Kendrick v. Campbell*, 1 Ball, 522; *Bank v. Steinmets*, 1 Hill, 30; *Thompson v. Bank*, Riley, 81; *Sinclair v. Lynch*, 1 Speer, 244; *Aiken v. Cathcart*, 2 Speer, 642; *Valk v. Gaillard*, 4 Strobb., 90.

As to notice.—*Long v. Moore*, 2 Brev., 172; *Ellerbe v. Course*, 1 Mill, 381; *Course v. Shackelford*, 2 N. & McC., 283; *Walker v. Scott*, 2 N. & McC., 286; *Poultney v. Haslett*, 1 N. & McC., 466; *Galpin v. Hard*, 3 McC., 394; *Moon v. Haynie*, 1 Hill, 411; *Bank v. Spell*, 2 Hill, 366; *Thompson v. Bank*, 3 Hill, 77; *Chadwick v. Jeffers*, 1 Rich., 337; *Yongue v. Ruff*, 3 Strobb., 311; *Bank v. Adams*, 11 S. C., 454; *Diercks v. Roberts*, 13 S. C., 343; *Bank v. Wallace*, 13

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S. C., 847; Fell v. Dial, 14 S. C., 250; Benedict v. Rose, 16 S. C., 595.

As to liability of drawer.—Richardson v. Pressnal, 1 McC., 1; Lewis, 1 McC., 322; Sawyer v. Steele, 2 McC., 459; Mot v. McC., 18; Chur v. Keckley, 1 Bail., 479; Wilson v. Wright, McCaskill v. Ballard, 8 Rich., 470; Dupont v. Ferry Co., 9 S. C., 443; McCaughrin v. Williams, 15 S. C., 51; Note.—Weymann v. Perry, 42 S. C., 415; 20 S. E., 287.

As to liability of endorser.—Bay v. Frazer, 1 Bay, 66; Harris, 1 Bay, 177; Shirliffe v. Gilbert, 1 Bay, 466; Fleming Brev., 428; Elfert v. Descondres, 1 Mill, 69; Moody v. Morris, Sharpe v. Bingley, 1 Mill, 373; Rugely v. Davidson, 2 Mill, 1; v. Lovell, 1 N. & McC., 83; Ehrick v. Haslett, 1 N. & McC., Matherson, 1 N. & McC., 116; Walker v. Scott, 2 N. & McC., Tolleson, 1 McC., 199; Price v. Young, 1 McC., 339; Eccles v. McC., 388; Stockman v. Riley, 2 McC., 398; Gillespie v. Har, 503; Page v. Loud, Harp., 269; Bank v. Myers, 1 Bail., Wilbur, 1 Bail., 453; Johnson v. Harth, 1 Bail., 462; Bank v. Bail., 1; Allwood v. Haseldon, 2 Bail., 457; Thompson v. Bank, 1; Riley, 81; Haslett v. King, Rice, 239; Bank v. Kerr, Fowler v. Fleming, 1 McM., 282; Valk v. Bank, McM. Eq., Berkeley, 2 Speer, 747; Cathcart v. Gibson, 1 Rich., 10; Ma, 1 Rich., 369; Gray v. Bell, 2 Rich., 67; Alken v. Cathcart, Dogan v. DuBois, 2 Rich. Eq., 85; Gray v. Bell, 3 Rich., 71; cart, 3 Rich., 133; Garrett v. Butler, 2 Strobb., 193; Baker v. 305; Wilthaus v. Ludcus, 5 Rich., 326; Bank v. Bobo, 9 H. son v. O'Connor, 10 Rich., 176; Gynemer v. Lopez, 11 Rich. Adams, 11 S. C., 454; McCelvey v. Noble, 12 Rich., 167; Mc, 12 Rich., 554; Dierck v. Roberts, 13 S. C., 338; Fall v. Dial, Bank v. Gary, 18 S. C., 288; Coleman v. Dunlap, 18 S. C., 50.

As to liability of acceptor.—Ashe v. Brewton, 1 Bay, 243; 1 Bay, 280; Scarborough v. Gelger, 1 Bay, 368; Bank v. Spe, Sibbey v. Tutt, McM. Eq., 320; Strockbecker v. Cohen, 1 Spe, v. Lide, 1 Rich., 249; Stoney v. Joseph, 1 Rich. Eq., 352; Cla, Rich., 311; Desbrow v. Farrow, 3 Rich., 382; Gadsden v. G, 324; Henderson v. Bank, 11 Rich., 125; Henneman v. The, 115; Bank v. Gunhouse, 17 S. C., 496.

When the drawee had paid out funds to drawer before notice not liable to damages.—Harvin v. Galluchat, 28 S. C., 211; 5

When protest unnecessary.

Civ. '02, § 1668.

Bill of exchange accepted for debt accounted a payment, when; drawer, etc., not to be discharged.

Civ. '02, § 1669.

Sec. 2241. No such protest shall be necessary in case of non-acceptance or non-payment of any inland bill of exchange, unless the value be acknowledged and paid in such bill to be received, and unless such bill be for the payment of one hundred dollars or upwards.

Sec. 2242. If any person accept any such bill for and in satisfaction of any former debt or sum of money formerly due unto him, the same shall be accounted and esteemed a full and complete payment of such debt of the person accepting of any such bill for his debt due him, and he shall be at his due course to obtain payment thereof by presenting the same to get the same accepted and paid, and make good the same as aforesaid, either for non-acceptance or non-payment thereof; but nothing herein contained shall ex

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arge any remedy that any person may have against the
awer, acceptor or endorser of such bill.

Junningham v. Smith, Harp. Eq., 90; Castelo v. Cave, 2 Hill, 528; Fiske
Judge, 2 Speer, 436; Bank v. Bobo, 9 Rich., 31; Bryce v. Bowers, 11
th., 41; Johnson v. Clarke, 15 S. C., 72; Bolt v. Dawkins, 16 S. C., 214;
ion Bank v. Wando Co., 17 S. C., 389; Compton v. Patterson, 28 S. C.,
5; 5 S. E., 270.

Sec. 2243. Whenever a Notary Public who may have <sup>Protest good
evidence if</sup> made protest for non-payment of any inland bill or promis-
ory note shall be dead, or shall reside out of the County <sup>Notary be
dead or ab-
sent.</sup> in which said bill or note is sued, his protest of said bill or
ote shall be received as sufficient evidence of notice in any
ction by any person whatsoever against any of the parties
such bill or note.

Civ. '02, §
1670.

Sharpe v. Bingley, 1 Mill, 373; Haig v. Newton, 1 Mill, 423; Dobson v.
ival, 4 McC., 57; Bank v. Green, 2 Ball., 230; Aiken v. Cathcart, 2 Speer,
2.

Sec. 2244. All bills of exchange, whether foreign or <sup>Days of grace
on bills pay-
able at sight.</sup> domestic, payable at sight, shall be entitled to the same days
f grace as are allowed by law on bills of exchange payable
n time.

Civ. '02, §
1671.

Sec. 2245. Where any bill of exchange is or shall be <sup>Protested bill
to carry in-
terest.</sup> drawn for the payment of any sum of money, for value
ceived, and such bill shall be protested for non-acceptance
r non-payment, the same shall carry interest from the time
ch bill shall become due and payable, at the rate of seven
er cent. per annum, until the money therein drawn for,
gether with damages and costs, be fully satisfied and paid.

Civ. '02, §
1672.

Sec. 2246. All bills of exchange drawn upon persons <sup>Damages al-
lowed upon
certain pro-
tested bills.</sup> resident within the United States, and out of this State, and
turned protested, the damages of such protested bills shall
e ten per cent. on the sum drawn for; and all bills in like <sup>Civ. '02, §
1673.</sup>
anner drawn upon persons resident in any other part of
orth America, or within any of the West India islands,
nd protested, the damages shall be twelve and a half per
ent.; and all bills drawn on persons resident in any other
art of the world, being protested, the damages shall be
fteen per cent. on the sums mentioned in such bills respec-
vely, and all charges incidental thereto, with lawful inter-
st, until the same be paid.

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No damages are recoverable where one draws a bill on another. *Isb v. Cruger*, 2 Bay, 277; see also *Bain v. Ackworth*, 1 Co. 10; *Throp v. Pepoon*, 1 Bay, 461. Damages not recoverable where given as an additional security to a bottomry bond.—*Hazl. Yeates* (Pa.), 19.

Jury may render verdict for difference of exchange on foreign bills.

Civ. '02, § 1674.

Notes, etc., for less than one dollar void; penalty for issuing.

Civ. '02, § 1675.

When paper maturing on Sunday or legal holiday collectible.

Civ. '02, § 1676.

What considered sealed instruments.

Civ. '02, § 1677.

Sec. 2247. In any action which shall be brought for the recovery of any bill of exchange, or any other instrument made payable in any other country, wherein the same shall recover, the jury shall have power to find with such difference of exchange as shall be just, and not less than the true difference of exchange; any law or custom to the contrary notwithstanding.

Sec. 2248. All bills, or promissory notes, payable to order or bearer, which shall be issued by any individual, company, or body corporate, within this State, for sums under one dollar, shall be void; and any persons who shall pass, or attempt to pass, or receive such bill in payment, shall be liable to be indicted and on conviction thereof shall be fined not less than five dollars.

Sec. 2249. Any commercial paper, or other instrument which shall mature and become payable and collectible on Sunday, or on any legal holiday, shall be deemed to mature and be treated as maturing and becoming payable on the next day thereafter, provided such day shall not be Sunday or a legal holiday; in which last day the same shall be deemed, taken and treated as maturing and collectible on the first day thereafter which shall be a day or a legal holiday.

Sec. 2250. Whenever it shall appear from the contents of a clause or from the other parts of any instrument that it was the intention of the party or parties to the said instrument should be a sealed instrument, the said instrument shall be construed to be, and shall have the effect of, a sealed instrument, although no seal be attached thereto.

This creates a statutory rule of evidence and is applicable since the passage of this Act.—*Cook v. Cooper*, 59 S. C., 56; *Applied to scroll or word "seal" written in place of notary seal*, *ford v. Western Union Tel. Co.*, 60 S. C., 201; 38 S. E., 44.

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ARTICLE III.

AGENCY.

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| <p>1. Act of agent good though principal be dead; when; proviso.</p> | <p>Sec.
2252. Notes made before death of principal and passed away by agent after; when valid; proviso; limitation.</p> |
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Section 2251. If any agent, constituted by power of attorney or other authority, shall do any act for his principal which would be lawful if such principal were living, the same shall be valid and binding on the estate of said principal, although he or she may have died before such act was done: *Provided*, The party treating with such agent dealt *bona fide*, not knowing at the time of the doing of such act that such principal was dead.

Act of agent good, though principal be dead; when; proviso.
Civ. '02, § 1678.

Generally: Power not coupled with interest does not survive.—*Johnson v. Ston*, 27 S. C., 309; 3 S. E., 606.
Agency shown by acts of agency.—*Woodward v. Cave*, 79 S. C., 578; 61 S. E., 82.
Scope of agency a question for the jury.—*Blowers v. Southern Railway*, 74 S. C., 222; 54 S. E., 368; *Fall v. Western Union Telegraph Co.*, 80 S. C., 60 S. E., 697; 61 S. E., 258.
Agent and independent contractor distinguished.—*Banks v. Southern Insurance Co.*, 78 S. C., 211; 53 S. E., 166.
Declarations within scope of agency.—*Stroud v. C. & L. R. R. Co.*, 79 S. C., 447; 60 S. E., 963.
Agent broker entitled to commissions on sale.—*Goldsmith v. Cox*, 80 S. C., 341; 61 S. E., 551.

Sec. 2252. If any note or bill, whether filled up before or after having been signed or endorsed, shall be passed away after the death of such drawer or endorser, by an agent duly constituted in his or her lifetime, the same shall be valid and binding on his or her estate, in like manner as though he or she had not died before such passing away: *Provided*, The drawer of such note or bill received the same *bona fide*, without a knowledge of such death, and that the act of the agent would have been binding on the principal if it had been done before such death; the act to be done, either under power of attorney or authority, or in relation to the bill or note, must be done within nine months after the death of the principal, or of the drawer or endorser of such note or

Notes made before death of principal and passed away by agent after; when valid; proviso; limitation.
Civ. '02, § 1679.

May be formed by whom, and for what purposes.

Civ. '02, § 1660.

General and special partners and their liabilities.

Civ. '02, § 1681.

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ners, and who shall not be liable for the debts of the partnership beyond the funds so contributed by him or them to the capital.

ability of general partners.—Pope Mfg. Co. v. Welch, 55 S. C., 528; 83 787.

2255. The general partners only shall be authorized to transact business and sign for the partnership, and to do the same.

Powers of general partners.

Civ. '02, § 1682.

2256. The persons desirous of forming such partnership shall make, and severally sign, in the presence of two subscribing witnesses, a certificate, which shall contain—

Partners to sign certificate; its contents.

First. The name or firm under which such partnership shall be conducted.

Civ. '02, § 1683.

Second. The general nature of the business intended to be transacted.

Third. The names of all the general and special partners named therein, distinguishing which are general and which are special partners, and their respective places of residence.

Fourth. The amount of capital which each special partner shall have contributed to the common stock.

Fifth. The period at which the partnership is to commence, and the period at which it will terminate.

Where this section is not substantially complied with the special are liable general partners. What is not a sufficient compliance.—Spencer Co. v. S., 53 S. C., 533; 81 S. E., 392.

2257. The certificate shall be proved in the same manner that deeds of conveyances for lands are required by law to be proved.

Certificate to be proved.

Civ. '02, § 1684.

2258. The certificates so proved, with the probate, shall be filed in the office of the Clerk of the Court of that County in which the principal place of business of the partnership shall be situated, and shall also be recorded by him, or by the Register, in a book so kept for that purpose, open to public inspection. If the partnership shall have places of business located in different Counties, a transcript of the certificate of the probate thereof, duly certified by the Clerk in whose office it shall be filed, under his official seal, shall be sent and recorded in like manner in the office of the Clerk of the Court in every such County.

To be filed and recorded in County Clerk's office.

Civ. '02, § 1685.

he original certificate, shall be deemed a dissolution of partnership, and every such partnership, which shall in manner be carried on after such alteration shall have made, shall be deemed a general partnership, unless viewed as a limited partnership, according to the provisions of the preceding Section.

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Dissolved by alterations, and deemed general partnership.

Civ. '02, § 1691.

ec. 2265. The business of the partnership shall be conducted under a firm, in which the name or names of the general partner or partners only shall be inserted, without addition of the word "Company," or any other general name; and if the name of any special partner shall be used in such firm with his privity, he shall be deemed a general partner.

Firm name, etc.

Civ. '02, § 1692.

ec. 2266. Suits in relation to the business of the partnership shall be brought and conducted by and against the general partners, in the same manner as if there were no special partners.

Suits to be conducted by general partners.

Civ. '02, § 1693.

ec. 2267. A special partner may, from time to time, retire from the state and progress of the partnership concerns, and may advise as to their management; but if he shall take any active part in transacting the business of the partnership, except as attorney, counsel, or solicitor, he shall be liable as a general partner.

Rights of special partners.

Civ. '02, § 1694.

ec. 2268. The general partners shall be liable to account each other, and to the special partners for the management of their concerns, both in law and equity, as other partners now are by law.

General partners to account.

Civ. '02, § 1695.

ec. 2269. Every partner who shall be guilty of any fraud in the affairs of the partnership, shall be liable, civilly, to the party injured, to the extent of his damages; and shall also be liable to an indictment for a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the Court by which he shall be tried.

Punishment of partners for fraud.

Civ. '02, § 1696.

ec. 2270. Every sale, assignment, or transfer of any of the property or effects of such partnership, made by such partnership, when insolvent, or in contemplation of insolvency, or after, or in contemplation of the insolvency of any partner, with the intent of giving a preference to any creditor of such partnership or insolvent partner over other creditors of such partnership, and every judgment confessed, lien created, or security given by such partnership,

Sales by insolvent partnership void; judgments, etc., by same void against creditors.

Civ. '02, § 1697.

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Certain
transfer of ef-
fects of part-
ner void.

Civ. '02, §
1698.

Special part-
ners liable as
general part-
ners; when.

Civ. '02, §
1699.

When not to
claim as cred-
itors.

Civ. '02, §
1700.

No dissolu-
tion by act of
partners with-
out notice;
same to be
filed, etc., in
Clerk's office,
etc.

Civ. '02, §
1701.

Clerk's fees.

Civ. '02, §
1702.

No part of
capital stock
to be with-
drawn by
partners. In-
terest allow-
ed in certain
cases.

Civ. '02, §
1703.

under the like circumstances and with the like intent, shall be void as against the creditors of such partnership.

Sec. 2271. Every such sale, assignment, or conveyance of any of the property or effects of a general or special partner made by such general or special partner while he is in contemplation of insolvency, or after, or subsequent to the declaration of the insolvency of the partnership, with intent to give preference to any creditor of his own, or of the partnership, over the creditors of the partnership, shall be void as against the creditors of the partnership.

Sec. 2272. Every special partner who shall violate the provision of the last two preceding Sections shall be liable to the partnership, or by any individual partner, shall be liable as a general partner.

Sec. 2273. In case of the insolvency or bankruptcy of a partnership, no special partner shall under any circumstances be allowed to claim, as a creditor, until all the other creditors of the partnership shall have been paid.

Sec. 2274. No dissolution of such partnership shall take place previous to the expiration of the term specified in the certificate of its formation, or in the certificate of its renewal, until a notice of such dissolution shall have been filed and recorded in the Clerk's office, and the original certificate was recorded, and published in two or more newspapers most commonly read at the place or places where such partnership exists, and a copy of the notice shall be posted on the door of the Court House of the County in which the partnership may be located.

Sec. 2275. The Clerk of the Court shall be entitled to the same services the same compensation now allowed to the Clerk of the Register of Mesne Conveyances for similar services.

Sec. 2276. No part of the sum which any partner shall have contributed to the capital stock of the partnership, or drawn by him, or paid, loaned, or transferred to him, for profits, dividends, or otherwise, at any time during the continuance of the partnership; but any partner shall be entitled to receive lawful interest on the sum so contributed.

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e payment of such interest shall not reduce the original amount of the capital after payment of all the debts of the partnership; and if, after the payment of such debts and interest, any profits shall remain, he may receive his portion thereof.

Sec. 2277. Any creditor of a limited partnership may, at his option, include in his suit against the same the special partner, or partners, who may become liable as general partners by failing to comply with the provisions of this chapter; and all the facts necessary to affirm or negative the liability of such special partner, or partners, may be given in evidence under the general issue; and the failure of the plaintiff to establish such liability shall not be cause of non-suit. Against whom creditors may bring suit.
Civ. '02, § 1704.

Sec. 2278. Every mercantile partnership in this State, in addition to a proper or conspicuous sign-board or plate containing the name and style of the firm, shall post up and keep posted up in some conspicuous place at the business end and stands of the firm the given and surname of each member of the firm, under pain, in case of default, of being sued and proceeded against, without naming the individual members of the firm, and also of forfeiting and paying, severally and each, the sum of fifty dollars, to any one who shall sue for the same, for each and every month they shall make such default as aforesaid. Every person conducting any business as agent shall post up, and keep posted up, in like manner, the name of his or her principal, under the like penalty. Names of firm to be kept posted up. Forfeiture for default.
Civ. '02, § 1705.

Sec. 2279. Any person or persons who shall post up a sign-board or sign-board, representing himself or themselves as being united with another or others in partnership, under the addition of the word "Company" or "Co.," or shall otherwise make such representation, when in fact such other persons are not united with him or them in partnership, as aforesaid, he and they shall each be subject to forfeit and pay, as aforesaid, the monthly penalty prescribed in Section 2279 of this Chapter. Penalty for posting up incorrect sign.
Civ. '02, § 1706.

Sec. 2280. Nothing contained in the last two Sections shall apply to the special partners of a limited partnership. Not applicable to special partners, etc.
Civ. '02, § 1707.

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Common Pleas and General Sessions in this State, of the names and residences of the parties interested in the business of carrying. The said list shall appear at least once two months during the time they are engaged in said business.

Sec. 2283. No public notice or declaration shall limit or in any wise affect the liability at common law of any public common carriers for or in respect of any goods to be carried or conveyed by them; but they shall be liable, as at common law, to answer for the loss of or injury to any articles or goods delivered to them for transportation, any public notice or declaration by them made and given contrary hereto or in any wise limiting such liability notwithstanding.

Carriers' liability at common law not affected by public notice, etc.

Civ. '02, § 1709.

McClure v. Hammond, 1 Bay, 99;; *Gaither v. Barrett*, 2 Brev., 488; *McMaid v. Clerk*, 8 McC., 223; *Bason v. Steamboat Company*, Harp., 262; *Apbell v. Morse*, Harp., 468; *Ewart v. Street*, 2 Ball., 157; *Smyrl v. Lin*, 2 Ball., 421; *Blair v. Jeffries*, Dud., 59; *Patton v. Magrath*, Dud., ; *Faulkner v. Wright*, Rice, 107; *Goodwyn v. Douglas*, Cheves, 174; *Litohn v. Jones*, 2 McM., 365; *Ross v. English*, 2 Speer, 393; *Swindler v. Hard*, 2 Rich., 286; *Singleton v. Hilliard*, 1 Strob., 203; *Peixotto v. Mcughlin*, 1 Strob., 468; *McCall v. Brock*, 5 Strob., 119; *McClenaghan v. Eck*, 5 Rich., 17; *Cameron v. Rich*, 5 Rich., 352; *Shaw v. R. R. Co.*, 5 h., 462; *Dill v. R. R. Co.*, 7 Rich., 158; *Nettles v. R. R. Co.*, 7 Rich., 190; *ford v. R. R. Co.*, 7 Rich., 409; *Maybin v. R. R. Co.*, 8 Rich., 240; *Baker Brinson*, 9 Rich., 201; *Burnside v. Steamboat Co.*, 10 Rich., 113; *Kayle v. R. Co.*, 10 Rich., 382; *Wardlaw v. R. R. Co.*, 11 Rich., 337; *Porcher v. R. Co.*, 14 Rich., 181; *Porter v. Express Co.*, 4 S. C., 135; *Levy v. Express Co.*, 4 S. C., 234; *Faust v. R. R. Co.*, 8 S. C., 118; *Bamberg v. R. R.*, 9 S. C., 61; *Spear v. R. R.*, 11 S. C., 158; *ex parte Benson & Co.*, 18 C., 43; *Brown v. R. R. Co.*, 19 S. C., 56; *Piedmont v. R. R. Co.*, 19 S. C., ; *Wallingford v. R. R. Co.*, 26 S. C., 258; 2 S. E., 19; *Edwards v. R. R.*, 32 S. C., 117; 10 S. E., 822.

Sec. 2284. When under contract for shipment of freight or express over two or more common carriers, the responsibility of each or any of them shall cease upon delivery to the connecting line "in good order," and if such freight or express has been lost, damaged or destroyed, it shall be the duty of the initial delivering or terminal road, upon notice of such loss, damage or destruction being given to it by the shippers, consignee, or their assigns, to adjust such loss or damage with the owners of said goods within forty days, and upon failure to discharge such duty within forty days after such notice, or to trace such freight or express and inform the said party so notifying when, where and by which carrier the said freight or express was lost, damaged

Responsibility of carriers under certain contracts.

Civ. '02, § 1710.

Loss or damage to be adjusted.

Fine.

Failure.

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Proviso.

or destroyed, within said forty days, then said carrier shall be liable for all such loss, damage or destruction in the same manner and to the same extent as if such loss, damage or destruction occurred on its lines: *Provided*, that if the initial, terminal or delivering road can prove that it exercised due diligence, it has been unable to prevent such loss, damage or destruction thereupon be excused from liability under this section.

As to what contracts it refers.—Cave v. C. M. Ry. Co., 8. R., 359.

Common carriers to pay or refuse to pay losses within sixty days.

Civ. '02, § 1711.

Penalty for failing to pay loss in sixty days.

Public warehousemen.

Civ. '02, § 1712.

To give bond.

Civ. '02, § 1713.

Sec. 2285. All common carriers doing business in this State shall be required to pay for or refuse to pay for loss, breakage, or damage from breakage, damage or destruction of articles shipped over the lines of said common carrier within sixty days from the time a claim for the same so lost, broken or damaged shall be made.

In case the said common carrier shall not pay said claim for said loss, breakage or damage within the sixty days therein provided, then the said common carrier shall be liable for a fine of fifty dollars for each offence as penalty, in addition to the amount of said loss or damage, to be collected by the Court in any Court having jurisdiction of the same.

Sec. 2286. Any person engaged in the business of a warehouseman, or any corporation organized under the laws of this State and whose charter authorizes them to engage in the business of a warehouseman within this State, shall become a public warehouseman and authorized to maintain public warehouses for the storage of goods, wares and other merchandise as hereinafter provided, upon giving the bond hereinafter required.

Sec. 2287. Every person or corporation authorized under the preceding Section to become a public warehouseman shall give bond, to an amount based on the value of the goods said warehouseman will provide storage for, to the Clerk of the Court of Common Pleas of the county wherein is situated the warehouse of said public warehouseman, with sufficient sureties, to be approved by the Clerk of Court, for the faithful performance of a public warehouseman.

Sec. 2288. Whenever such warehouseman fails to perform his duty, or violates any of the provisions of this chapter, any person injured by such failure or violation may bring an action in his name, and to his own use, in any court of competent jurisdiction, on the bond of said warehouseman; and in case he shall fail in said action he shall be liable to the defendant for any costs which the defendant may recover in the action.

Sec. 2289. Every such warehouseman shall, when requested thereto, in writing, by a party placing property with him, or it, on storage, cause such property to be insured or whom it may concern. Every such warehouseman shall, except as hereinafter provided, give to each person depositing property with him for storage a receipt therefor, which shall be negotiable in form, and shall describe the property, distinctly stating the brand or distinguishing marks upon it, and if such property is grain the quantity and inspected grade thereof. The receipt shall also state the rate of charges for storing the property, and amount and rate of insurance thereon, and also the amount of the bond given to the Clerk of the Court as hereinabove provided: *Provided, however,* That every such warehouseman shall, upon request of any person depositing property with him for storage, give to such person his non-negotiable receipt therefor, which receipt shall have the words "non-negotiable" plainly written, printed or stamped on the face thereof.

Sec. 2290. No warehouseman, wharfinger, public or private inspector or custodian of property, or other person, shall issue any receipt, acceptance of an order or other voucher for or upon any goods, wares, merchandise, provisions, grain, flour or other produce or commodity to any person or persons purporting to be the owner or owners thereof, or entitled or claiming to receive the same, unless such goods, wares, merchandise, provisions, grain, flour or other commodity shall have been actually received into the store or upon the premises of such warehouseman, wharfinger, inspector, custodian or other person, and shall be in store or on the said premises as aforesaid and under his control at the time of issuing such receipt, acceptance or voucher.

Sec. 2291. No warehouseman, wharfinger or other person shall issue any receipt or other voucher upon any goods,

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Liability on bond.

Civ. '02, § 1714.

When shall insure property left in warehouse; receipt for goods.

Civ. '02, § 1715.

No warehouse or other receipt for property to be given unless actually received.

Civ. '02, § 1716.

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No such receipt to be issued as security unless goods are in custody.

Civ. '02, § 1717.

No duplicate receipt to be issued unless so marked.

Civ. '02, § 1718.

No such goods to be removed without assent of person holding receipt.

Civ. '02, § 1719.

Receipts transferable.

Rights of transferee.

Civ. '02, § 1720.

Receipt to be delivered upon surrender of goods.

Not negotiable.

wares, merchandise, grain, flour or other product or commodity to any person or persons as security for any money loaned or other indebtedness, unless such goods, wares, merchandise, grain or other produce or commodity shall be at the time of issuing such receipt in the custody of such warehouseman, wharfinger or other person, and shall be in store or upon the premises and under his control at the time of issuing such receipt or other voucher as aforesaid.

Sec. 2292. No warehouseman, wharfinger, inspector, custodian or other person shall issue any second or duplicate receipt, acceptance or other voucher for or upon any goods, wares, merchandise, provisions, grain, flour or other produce or commodity while any former receipt, acceptance or voucher for or upon any such goods, wares, merchandise, provisions, flour, grain or other produce or commodity as aforesaid, or any part thereof, shall be outstanding and uncanceled, without writing in ink across the face of the same "Duplicate."

Sec. 2293. No warehouseman, wharfinger or other person shall sell or encumber, ship, transfer or in any manner remove beyond his immediate control any goods, wares, merchandise, grain, flour or other produce or commodity for which a receipt shall have been given by him as aforesaid, whether received for storing, shipping, grinding, manufacturing or other purposes, without the written assent of the person or persons holding such receipt.

Sec. 2294. Warehouse receipts given for any goods, wares, merchandise, cotton, grain, flour, produce or other commodity and chattels stored or deposited with any warehouseman, wharfinger or other person, may be transferred by endorsement and delivery thereof, to the purchaser or pledgee, signed by the person to whom the receipt was originally given, or by an endorsee of such receipt; and any person to whom the same may be so transferred shall be deemed and taken to be the owner of the goods, wares and merchandise therein specified, so far as to give validity to any pledge, lien or transfer made or created by such person or persons; but no property shall be delivered except on surrender and cancellation of said original receipt or the endorsement of such delivery thereon in case of partial delivery. The assignment of warehouse receipts which shall

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or other words "Not negotiable" plainly written or stamped
as security ace thereof shall not be effective until recorded on
unless such is of the warehouseman issuing them.

2295. So much of the preceding Sections 2293 and forbids the delivery of property except on surrender
person. icellation of the original receipt or the endorsement
nder his delivery thereon, in the case of partial delivery, shall
er route ply to property replevied or removed by operation
arringer.

As to goods
replevied or
removed by
law.

Civ. '02, §
1721.

2296. When grain or other property is stored in
for or warehouses in such a manner that different lots or
fluor: s are mixed together, so that the identity thereof can-
receipt. accurately preserved, the warehouseman's receipt for
ware. portion of such grain or property shall be deemed a
nce of title to so much thereof as is designated in said receipt,
be ut regard to any separation or identification.

Grain.

Civ. '02, §
1722.

2297. Every such warehouseman shall keep a book
which shall be entered an account of all his transactions
ing to warehousing, storing and insuring cotton, goods,
s and merchandise, and to the issuing of receipts there-
which books shall be open to the inspection of any per-
actually interested in the property to which such entries
te.

Shall keep a
book of entry.

Civ. '02, §
1723.

Sec. 2298. All and every person or persons aggrieved by
violation of any of the provisions of Sections 2290 to
5 may have and maintain an action at law against the
son or persons violating any of the provisions thereof to
cover all damages, immediate or consequential, which he
they may have sustained by reason of any such violation
aforesaid, before any Court of competent jurisdiction,
hether such person shall have been convicted as herein-
before mentioned or not.

Action for
damages.

Civ. '02, §
1724.

Sec. 2299. Every public warehouseman who shall have
his possession any property by virtue of any agree-
ment or warehouse receipt for the same, storage of the
time, on which a claim for storage is at least one year over-
due, may proceed to sell the same at public auction, and
ut of the proceeds may return all charges for storage of
ich goods, wares and merchandise, and any advances that
ay have been made thereon by him or them, and the
xpenses of advertising and sale thereof. But no sale shall

When he
may sell prop-
erty left with
him.

Civ. '02, §
1725.

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name and place of residence, so far as the same are own.

see Criminal Code for penalty for illegal sales.

Sec. 2302. Whenever a public warehouseman has in his possession any property which is of a perishable nature, or ^{Perishable property; how disposed of.} all deteriorate greatly in value by keeping, or upon which ^{Civ. '02, § 1728.} charges for storage will be likely to exceed the value thereof, or which by its odor, leakage, inflammability, or explosive nature, is likely to injure other goods, such property having been stored upon non-negotiable receipt, and when said warehouseman has notified the person in whose name the property was received to remove said property, and such person has refused or omitted to receive and take away such property and to pay the storage and proper charges thereon, said public warehouseman may in the exercise of a reasonable discretion sell the same at public or private sale, without advertising, and the proceeds, if there be any proceeds after deducting the amount of said storage and charges and expenses of sale, shall be paid or credited to the person in whose name the property was stored; and if said person cannot be found, on reasonable enquiry, the sale may be made without any notice, and the proceeds of such sale, after deducting the amount of storage, expenses of sale, and other proper charges, shall be paid to the Clerk of the Court of the County wherein said warehouse is situated, who shall pay the same to the person entitled thereto if called for or claimed by the rightful owner within one year of the receipt thereof by said Clerk.

Sec. 2303. Whenever a public warehouseman, under the provisions of the preceding Section, has made a reasonable effort to sell perishable and worthless property, and has been unable to do so, because of its being of little or no value, he may then proceed to dispose of such property in any lawful manner, and he shall not be liable in any way for property so disposed of. ^{Civ. '02, § 1729.}

Sec. 2304. Whenever a public warehouseman, under the provisions of the two preceding Sections, has sold or otherwise disposed of property and the proceeds of such sale or disposition have not equalled the amount necessary to pay storage charges, expenses of sale and other charges against said property, then the person in whose name said ^{Liability for storage.} ^{Civ. '02, § 1730.}

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ice sold for the producers of tobacco from first hand; the number of pounds, grade and price sold for dealers; and the number of pounds, grade and price resold by the warehouseman for his own account or for the account of any other warehouse.

Sec. 2308. The Commissioner of Agriculture shall cause said statement to be accurately copied into a book to be kept for this purpose, and shall keep separate and apart the statements returned to him from each leaf tobacco market in the State, so as to show the number of pounds of tobacco sold by each market for the sale of leaf tobacco, the number of pounds sold by producers, and the number of pounds resold upon each market, and the said Commissioner of Agriculture shall keep said books open to the inspection of the public, and shall, on or before the tenth day of each month, after the receipt of the reports above required to be made to him on or before the fifth day of each month, cause the said reports to be published in the bulletin issued by the Agricultural Department, and in one or more journals published in the State, having a large circulation therein.

Reports to
be kept and
published.

Sec. 2309. A warehouseman within the meaning of Sections 2306, 2307, 2308, 2309 and 2310 shall be construed to mean the person, firm or corporation operating a warehouse for the sale of leaf tobacco, whether such person, firm or corporation be the owner or lessee of said warehouse.

"Warehouse-
man" defined.

Sec. 2310. The said Commissioner of Agriculture shall describe the form of the statement herein required, and furnish a sufficient number of blanks to the several warehousemen of the State.

Commission-
er of Agricul-
ture to fur-
nish blanks.

Sec. 2311. Power is hereby conferred on the Railroad Commission of South Carolina, and they are required to fix and prescribe a schedule of maximum rates and charges for storage of freight made and charged by railroad companies doing business in this State, and to fix at what time, after the reception of freight at place of destination, such charges for storage shall begin, with power to vary the same according to the value and character of the freight stored, the nature of the place of destination, and residence of consignee, and such other facts as in their judgment should be considered in fixing the same.

R. R. Com-
mission to fix
storage
charges on
freight.

Civ. '02, §
1732.

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All the provisions of the Act creating said Railroad Commission, and Acts amendatory thereof, prescribing the procedure of said Commission in fixing freight and passenger traffics, and hearing complaints of carrier and shippers, and of altering and amending said tariffs, shall apply to the subject of fixing and amending rates and charges for storage, as aforesaid.

Discrimination and excessive charges prohibited.

Civ. '02, § 1733.

Sec. 2312. No railroad company shall make or retain directly or indirectly, any charge for storage of freight greater than that fixed by the Commission for each particular storage, nor shall they discriminate directly or indirectly by means of rebate, or any device in such charges between persons.

Penalty for overcharge of storage.

Civ. '02, § 1734.

Sec. 2313. If any railroad company shall violate the provisions of this Chapter, either by exceeding the rates of storage prescribed, or by discriminating, as aforesaid, the person or persons so paying such overcharge, or subjected to such discrimination, shall have the right to sue for the same in any Court of this State having jurisdiction of the claim, and shall have all the remedies, and be entitled to recover the same penalties and measure of damages as is prescribed in the case of overcharge of freight rates, upon making like demand as is prescribed in such case, and after like failure to pay the same.

Common carriers may sell property unclaimed for six months.

Civ. '02, § 1735.

Notice to be given.

Sec. 2314. Every railroad corporation, express company, and the proprietors of every steamboat engaged in the transportation of passengers and freight, or either, which shall have had unclaimed freight or baggage not perishable in its possession for the period of six months may proceed and sell the same at public auction, after giving notice to that effect in one or more newspapers published in the State or at the place where such goods are to be sold once a week for not less than four weeks, and shall also keep a notice of such sale posted for the same time in a conspicuous place in the principal office of said company.

Contents of advertisement.

Civ. '02, § 1736.

Sec. 2315. Said notice shall contain, as near as practicable, a description of such freight or baggage, the place and time when and where left, together with the name and residence of the owner of the freight or baggage, or person to whom it is consigned, if the same be known.

2316. All moneys raised from the sale of freight or baggage as aforesaid, after deducting therefrom charges and expenses for the transportation, storage, advertising, commissions for selling the property, and any amount previously paid for advances on such freight and baggage, shall be paid by the company to the persons entitled to receive the

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Disposition
of moneys received.Civ. '02, §
1737.

2317. The said company shall keep books of record of such sales as aforesaid, containing copies of such sales, proofs of advertisements and posting, affidavit of the amount for which each parcel was sold, the amount of charges against such parcel, and the amount in trust for the owner; which books shall be open for inspection by claimants, at the principal office of the said company, and at the office where the sale was made.

Books of sale
to be kept for
inspection.Civ. '02, §
1738.

2318. It shall be lawful for any mechanic, in this State, when property may be left at his shop for repair, to sell the same at public outcry, to the highest bidder, after the expiration of one year from the time such property shall have been repaired; and the same shall be sold by any Justice of the Peace of the County in which the work was done:

When and
by whom may
be sold; surplus
deposited
with Clerk
of Court.Civ. '02, §
1739.

Provided, That the said Magistrate shall, before selling such property, advertise the same, for at least ten days, by publishing a notice in three of the most conspicuous places in the township. And he shall, after deducting all proper expenses and commissions, pay to the claimant the money due to him, on making his receipt for the same; after which he shall deliver to the claimant the said receipt, as well as the items of costs and commissions, with the remainder of money or proceeds of the sale, in the office of the Clerk of the Court, subject to the order of the owner thereof, or his legal representatives.

2319. The Magistrate who shall sell such property shall be entitled to receive the same commissions as are now provided by law for the sale of personal property by con-

Commissions
on such sales.Civ. '02, §
1740.

2320. Whenever and so long as the proprietor or managers of any hotel, inn, or boarding house shall post a sign or sign posted in a conspicuous manner, in the room occupied by any guest a notice requiring such guest to bolt the door of such room, or on leaving his room to lock the door and to give the keys at the office, and also to deposit such

Liability of
inn-keepers
limited.Notice to
guests.Civ. '02, §
1741.

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at at any time after the expiration of ten days after
erson incurring the debt or obligation has left the hotel,
r boarding house, and the debt or obligation being still
and unpaid, the owner or proprietor of said hotel, inn
boarding house may sell, at public auction, for cash, at
or boarding house office, any or all baggage or prop-
left at said hotel, inn or boarding house, to satisfy said
or obligation without any process at law or equity:
ided, That said sale shall be advertised by written or
ed posters at three public places in the vicinity for at
ten days before said sale.

Innkeeper
may sell at
public auc-
tion all bag-
gage in case
of default.

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CHAPTER XLI.

Hawkers and Peddlers.

Sec.

2322. Must obtain license; from whom.

2323. Clerk authorized to grant such license; amount of fee payable to County.

2324. Inspection of license.

Sec.

2325. Vendors of what articles exempt; what not exempt.

2326. Certain sailors and soldiers exempted.

2327. Prohibited from selling medicine.

License to be obtained; from whom.

Civ. '02. 1742.

Section 2322. No person shall, as hawker or peddler, expose for sale or sell any goods, wares and merchandise in any County in this State unless he has received and is ready to produce and exhibit a license from the Clerk of the Court of Common Pleas of such County so as to sell or expose for sale goods, wares and merchandise in said County.

Hawkers and peddlers defined.—State v. Belcher, 1 McM., 40.

State v. Moorehead, 42 S. C., 211; 20 S. E., 544; Alexander v. Greenville, 49 S. C., 527; 27 S. E., 479; State v. Coop, 52 S. C., 508; 30 S. E., 609.

Term of license; fee for to be fixed by the County Commissioners.

Civ. '02. 1743.

Sec. 2323. Said Clerk shall issue licenses to hawkers and peddlers, to be good in his County until the last day of December next after the date of its issue, upon receiving from the applicant such fee or fees therefor as the County Board of Commissioners shall at their first meeting in January after the passage of this Chapter, and thereafter at their first meeting in January of every year, establish and fix license fees for hawkers and peddlers in their County; and it shall be the duty of the County Board of Commissioners to fix and establish the said license fees in the several Counties of this State. And each license shall specify the sum paid therefor and the privileges granted thereby.

As to constitutionality of this Section see opinion of Mr. Justice Gary, in State v. Moorehead, 42 S. C., 216; 20 S. E., 544.

Inspection of licenses; arrest and trial.

Civ. '02. 1744.

Sec. 2324. It shall be the duty of every Magistrate and every Constable and of the Sheriff and of his regular deputies to, and every citizen may, demand and inspect the license of any hawker or peddler in his or their County who shall come under the notice of any of said officers, and to arrest or cause to be arrested any hawker or peddler found without a good and valid license, and to bring such

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ker or peddler before the nearest Magistrate to be dealt
according to law.

Sec. 2325. The provisions of this Chapter shall not
and to vendors of newspapers, magazines, vegetables,
tobacco, provisions of any kind or agricultural products, or
sales by sample by persons traveling for established com-
mercial houses, but shall extend and apply to vendors of
any other class and kind of goods, wares and merchandise,
to sales by sample or otherwise by such hawkers and
peddlers of stoves, ranges, clocks, lightning rods, sewing
machines, pianos or organs.

This Section only extends to sale by "hawkers and peddlers" as heretofore
defined; it does not include traveling salesmen of houses having established
places of business in this State.—State v. Moorehead, *supra*, or such mer-
chants, sending out delivery wagons from which they occasionally take
sales.—Alexander v. Greenville, *supra*, or one who delivers a picture already
framed with option to purchaser to buy frame, as set out in contract of sale.—
State v. Coop, 52 S. C., 508.

Sec. 2326. Any person who was a *bona fide* soldier or
sailor in the service of the State of South Carolina or of the
Confederate States in the war between the States may
travel for sale or sell, as hawker or peddler, any goods,
wares or merchandise in any County, city or town in this
State without taking out the license required by this Chap-
ter.

Provided, He make to the Clerk of the Court of Com-
mon Pleas of the County in which such goods are to be sold
satisfactory proof that he was such soldier or sailor.

See *Laurens v. Anderson*, 75 S. C., 62; 55 S. E., 136.

Sec. 2327. It shall be unlawful for any person to travel
as hawkers and peddlers from place to place in this State,
to sell or to offer for sale any medicine, drug or com-
pound to be used as a curative, without first paying to the
Clerk of the Court of each County in which such person
sells to sell such medicine, drug or compound, a fee of one
hundred dollars for the use of such County, and procuring
from him a license permitting such person to sell such medi-
cine, drug or compound within such County. Such license
shall be good for twelve months from the date thereof: *Pro-
vided*, That every package or bottle of such medicine, drug
or compound shall have plainly written or printed on it, in
English language, the formula of the contents thereof,
which formula shall be approved in writing by a regularly

What arti-
cles exempt;
what not ex-
empt.

Civ. '02, §
1745.

Certain sol-
diers and sail-
ors exempt
from hawkers'
and peddlers'
license.

Civ. '02, §
1746; 1902,
XXIII, 1036.

Unlawful to
sell drugs
from place to
place without
license.

1902, XXIII,
1101.

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licensed practicing physician of this State, and a copy of said approval shall be lithographed or printed on each package or bottle of such medicine, drug or compound. *Provided, further,* That any person who holds a certificate under the hand and official seal of the Clerk of Court of any County in this State, that his name is on the Confederate pension roll of said County, shall be exempt from the payment of such license.

One soliciting orders for medicines to be shipped into the State not liable.—
State v. Ivey, 73 S. C., 282 ; 53 S. E., 428.

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CHAPTER XLII.

Pawnbrokers.

SEC.

8. License required before carrying on business as pawnbroker.

9. By whom and how granted.

10. Actions against pawnbrokers.

11. Book to be kept by pawnbrokers.

2332. Memorandum to be given describing goods.

2333. Books may be inspected.

2334. Interest regulated.

2335. When goods pledged may be sold.

2336. Penalties for violations.

Section 2328. No person, corporation, member of copartnership or firm shall hereafter carry on the business of pawnbroker, in any of the cities, towns or Counties of this State, without having first obtained from the Mayor of the city or town, or Clerk of the Circuit Court of the County where the business is to be carried on, a license, for which he shall pay such license fee as may be fixed by the municipal authorities of the city or town of the State, or by the County Board of Commissioners of the Counties authorizing such person to carry on the same, in the manner and on the conditions stated in the succeeding Sections of this Chapter.

Sec. 2329. The Mayor of any city or town, the Clerk of the Circuit Court of the County, may from time to time grant, under his hand and the official seal of his office, to such citizens as he shall deem proper, and who shall produce to him satisfactory evidence of their good character, a license authorizing such citizen or citizens to carry on the business of a pawnbroker, which license shall designate the place in which such person shall carry on said business; and no person, corporation, member or members of a copartnership or firm shall carry on the business of a pawnbroker without being duly licensed, nor in any other house than the one designated in said license, under penalty of five dollars for each day he or she or they shall exercise or carry on said business without such license, or at any other house than the one designated. Any person, corporation, member or members of a copartnership or firm who loans money on pledge of personal property or other valuable thing, other than

Unlawful to carry on business of pawnbroker without license.

Civ. '02, § 1748.

How license shall be granted.

Civ. '02, § 1749.

Pawnbroker defined.

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Bond.

securities or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable thing, on condition of selling the same back again at a stipulated price, is hereby declared and defined to be a pawnbroker. Every person so licensed shall, at the time of receiving such license, file with the Mayor or Clerk of the Court granting the same, a bond to the local authorities of such city or town or County, to be executed by the person so licensed and by two responsible sureties, or a surety company licensed to do business in the penal sum of one thousand dollars, to be approved of by such Mayor or Clerk of the Circuit Court, and which bond shall be conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed, and the Mayor or Clerk of the Circuit Court shall have full power and authority to revoke such license for cause.

ACTIONS
against pawn-
brokers.

Civ. '02, §
1750.

Sec. 2330. If any person shall be aggrieved by the misconduct of any such licensed pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon said judgment, maintain an action in his own name upon the bond of said pawnbroker in any Court having jurisdiction of the amount claimed: *Provided*, Such Court shall upon application, made for the purpose, grant such leave to prosecute such suit.

**Pawnbrok-
ers to keep
book for de-
scription of
goods pawned.**

Civ. '02, §
1751.

Sec. 2331. Every such pawnbroker shall keep a book in which shall be fairly written, at the time of such loan, an account and description of the goods, articles or things pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging the said goods, articles or things.

**To issue note
describing
goods pawned.**

Civ. '02, §
1752.

Sec. 2332. Every such pawnbroker shall at the time of each loan deliver to the person pawning or pledging any goods, article or thing, a memorandum or note, signed by him, containing the substance of the entry required to be made in his book by the last preceding Section, and no charge shall be made or received by any pawnbroker for any such entry, memorandum or note.

c. 2333. The said book shall at all reasonable times be to the inspection of the Mayor and Clerk of the Circuit Court, all Judges of the Criminal Courts, the Superintendent of Police, Police Inspectors, Captains of Police, and Justices of such towns or Counties, or any or either of them, or of any person who shall be duly authorized in writing for that purpose by any or either of them, and who shall exhibit such written authority to such pawnbroker.

c. 2334. No pawnbroker shall ask, demand or receive a greater rate of interest than that now fixed by Statute.

c. 2335. No pawnbroker shall sell any pawn or pledge which the same shall have remained sixty days in his possession after the maturity of the debt for which the property was pledged.

c. 2336. The Mayor or Clerk of the Circuit Court, so as to employ such pawnbroker, shall have full power and authority to impose fines and penalties, of not less than twenty-five dollars nor more than one hundred dollars, upon persons offending against any or either of the foregoing provisions, for each and every offence, excepting Sections 2328 and 2329, and also to suspend his or her license until the same shall be paid to him.

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Books open
for inspection.

Civ. '02, §
1753.

Interest.

Civ. '02, §
1754.

Pledge not
to be sold be-
fore sixty
days after ma-
turity.

Civ. '02, §
1755.

Penalties;
how imposed.

Civ. '02, §
1756.

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TITLE XII.

OF CORPORATIONS AND UNINCORPORATED ASSOCIATIONS.

- CHAPTER XLIII. *Banks and Banking.*
- CHAPTER XLIV. *Foreign Corporations, Generally, and Aliens.*
- CHAPTER XLV. *Insurance Companies.*
- CHAPTER XLVI. *Fraternal Beneficial Associations.*
- CHAPTER XLVII. *Provisions Applicable to Corporations Generally.*
- CHAPTER XLVIII. *Private Corporations Organized Under General Laws.*
- CHAPTER XLIX. *Municipal Corporations.*
- CHAPTER L. *Railroad Corporations—General Railroad Law.*
- CHAPTER LI. *Telegraph, Telephone, Express and Steamboat Companies.*
- CHAPTER LII. *Draining Corporations.*
- CHAPTER LIII. *Unincorporated Joint Stock and Other Associations.*
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CHAPTER XLIII.

Of Banks and Banking.

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| <p>SEC.</p> <p>2337. Banks may make loans and open accounts with other States.</p> <p>2338. May invest in State or United States stocks.</p> <p>2339. Penalty if circulating notes exceed three times amount of gold, etc.</p> <p>2340. To report weekly to Comptroller-General.</p> <p>2341. Penalty for failure to report.</p> | <p>SEC.</p> <p>2342. Felony to receive deposits after knowledge of insolvency.</p> <p>2343. Banks not to pay mutilated notes unless security given.</p> <p>2344. Definition of "bank note" and "bank of issue."</p> <p>2345. Parts of bank charters repugnant to Sections 2337 and 2338 repealed; proviso.</p> |
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	Sac.
Institutions lending money, etc., to publish quarterly statements under oath; penalty for failure.	2356. Provisions not to apply to national banks.
Governor to appoint Bank Examiner.	2357. Banking and other powers.
Duty and powers of Bank Examiner.	2358. Banks to set aside fund for surplus.
Term of office and compensation.	2359. Banks may act as trustee, guardian, administrator, etc.
Fees for examination.	2360. Capital stocks as security.
Duty in case of unsound bank.	2361. Papers to be signed and sworn to by officer.
Special examinations.	2362. Additional security.
Qualifications of Bank Examiner.	2363. Liability of stockholders.
Statements by banks.	2364. Limit of loan to individuals, etc.
Statements by banks.	2365. Loans to Directors, etc.
	2366. Powers of Directors, etc.

Article I, Chapter XLVIII, Sections 1880-1901, post. Business corporations for law governing the formation of banking corporations, which repeals application.—R. S. 1536 and 1537.

Section 2337. The President, Directors and Company of an incorporated bank in this State, are authorized to make loans on negotiable paper, for any period not exceeding six months; and also to open an account and give a note to any other bank or banks in any of the sister States.

Banks may make loans and open accounts with other States.

Civ. '02, § 1757.

Sec. 2338. Such corporations shall have power to vest, from time to time, such part of their capital, not exceeding one-tenth of the amount of stock any such bank may hold) one-tenth of the amount originally subscribed to such bank, in the stock of this State, or of the United States.

May invest in State or United States stocks.

Civ. '02, § 1758.

Sec. 2339. If the bank notes issued by any bank, and in circulation, shall at any time exceed, for more than four successive weeks, three times the amount of gold and silver and bullion in possession of the bank, or subject to its control, within the limits of this State, as its own property, the bank shall forfeit five hundred dollars for each and every successive week during which such excess shall continue, to be recovered by action at the suit of the state.

Penalty if circulating notes exceed three times amount of gold, etc.

Civ. '02, § 1759.

Sec. 2340. In order that such excess, when it exists, may be ascertained, it shall be the duty of the President or Cashier of every bank of issue, on Wednesday of every week, to transmit to the Comptroller-General an account of the amount of bank notes of such bank in circulation; and also an account of the amount of gold and silver coin and bullion in the possession of the bank, or subject to its control, as its

To report weekly to Comptroller-General.

Civ. '02, § 1760.

2337 and 2338 of this Chapter are repealed: *Provided*, nothing contained herein shall be construed so as to prevent the Legislature of this State from prohibiting the use of stock, as provided by Section 2338 of this Chapter, whenever it may be deemed expedient.

2346. All institutions doing business in this State, lending money and receiving deposits, under Acts of incorporation granted by the State, are hereby required, under penalty of a forfeiture of their charters, to publish in some newspaper in the city, town or village where they, or any officer thereof, may do business, when and as called for by the State Bank Examiner, without previous notice, a correct statement of the condition and business of such institution, and each report shall contain a statement, under oath, by the President or Cashier of such institution, of the amount of capital stock paid in, deposits, discounts, property and liabilities of said institution, verified by three of the Directors thereof.

In case of failure of any such institution to publish the report required herein, the Attorney-General, on notice thereof, may once take the necessary steps to vacate the charter of such institution. This Section shall apply to all private banking institutions, whether chartered or not.

2347. The Governor of the State shall appoint a competent person to examine, from time to time as herein provided, into the affairs and the condition of all banks and banking institutions conducted by corporations or associations in this State. In the selection of said Bank Examiner the Governor may advise with the Executive Committee of the South Carolina Bankers' Association.

2348. It shall be the duty of such Bank Examiner, and he shall have power to make a thorough examination of the books, papers, and affairs, of the aforesaid banks and banking institutions, and in making such examination the Examiner shall have authority to administer oaths and to summon and examine any and all persons connected with the said banks and banking institutions, and any person in such examination before the Bank Examiner who shall testify falsely, he shall be indictable as for perjury. The Bank Examiner shall make a full and detailed report of his findings and file the same in the office of the

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Parts of
bank charters
repugnant to
Sections 1343
and 1344 re-
pealed; pro-
viso.

Civ. '02, §
1765.

Institutions
lending
money, etc.,
to publish
quarterly
statements
under oath;
penalty for
failure.

Civ. '02, §
1766; 1904,
XXIV, § 98;
1909, XXVI,
§ 90.

Governor to
appoint Bank
Examiner.

Duty and
power of
Bank Exam-
iner.

Report.

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State Treasurer, and in this report shall set forth all violations, if any, of the banking laws of this State, and also such a full summary of the affairs of the bank, as shall be necessary for the protection of the rights of the stockholders, depositors and creditors of such bank.

It shall also be the duty of said Bank Examiner to forthwith bring to the attention of the said banks all such violations of the banking laws of this State and that the same be remedied or discontinued.

Term of office and compensation.

Sec. 2349. The term of office of the said Bank Examiner shall be four years, and he shall receive as his compensation therefor three thousand dollars per annum, and also all actual expenses, whether traveling or otherwise, incurred by him in the discharge of his duties. He shall also be empowered to appoint an assistant, at a salary of fifteen hundred dollars per annum, and to pay his traveling expenses while in discharge of his duties. The Bank Examiner shall also have the right to incur such reasonable expenses as are necessary in the conduct and management of his office: *Provided, however,* That the total of all his expenses as provided for shall not exceed the sum to be derived by assessments from the various banks in this State as herein provided for.

Assistant.

Fees for examination.

Sec. 2350. The Bank Examiner shall make at least one examination every year of all the banks and banking institutions in this State, and for every examination he shall collect and pay over to the State Treasurer the following fees: From all banks having one hundred thousand dollars (\$100,000) or more capital, fifty dollars (\$50); from all banks having fifty thousand dollars (\$50,000) and under one hundred thousand dollars (\$100,000) capital, forty dollars (\$40); from all banks having twenty thousand dollars (\$20,000) and under fifty thousand dollars (\$50,000) capital, thirty dollars (\$30); and from all banks having a capital less than twenty thousand dollars (\$20,000), he shall collect twenty dollars (\$20). No bank shall be compelled to pay for more than one examination each year unless such additional examination shall be requested by the stockholders as hereinafter provided: *Provided, however,* That if more than one examination be necessary through the mismanagement or negligence of a bank's officers, the actual expense

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ch additional examination shall be paid by the bank
ned.

State Treasurer shall hold such funds in his hands
e special purpose of paying the expenses of the State
iner and his office, and shall be payable upon the order
e said State Bank Examiner. The State Treasurer
include in his annual report to the Legislature an
ct of the reports made to him by the State Bank
iner, showing the financial condition of the banks
ned by him as shown by said reports, and also a sched-
the receipts and disbursements connected with the said
Bank Examiner's office.

Disposition
of funds.

2351. If the State Bank Examiner shall find that
f the said banks or banking institutions are insolvent,
t their business is being so dishonestly and fraudu-
conducted as to jeopardize the interests of the deposi-
creditors or stockholders, he shall have full power,
consultation with the State Treasurer, to take and
possession of all the assets and property of every
otion belonging to such bank or banking institution:
led, He shall first have applied for and obtained an
to this effect from a Circuit Judge, either residing or
ing at the time, in the Circuit in which such bank or
g institution is located, two days' notice of such
ation being first given to the Board of Directors of
ank of the application for said order. And it shall be
ty and he is hereby authorized and empowered to
proper application to the Court for the appointment
self or some other person as receiver to wind up and
the affairs of such bank or banking institution.

Duty in case
of unsound
banks.

2352. It shall be the duty of said Bank Examiner,
time, upon receiving the petition of stockholders rep-
ing one-fourth (1-4) of the capital stock of any bank
may be incorporated under the laws of this State to
forthwith a special examination of such bank and to
report of the same with the State Treasurer, and for
special examination the said bank shall pay to the
Bank Examiner for the State Treasurer the same fees
rovided for one annual examination.

Special ex-
aminations.

2353. That no person shall be appointed to the
of the State Bank Examiner unless he be an expert

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Qualifica-
tions of Bank
Examiner.

accountant and shall have had practical experience in the banking business; nor shall he qualify as such Examiner until he shall have taken the oath provided for in the Constitution, and shall have filed in the office of the State Treasurer a bond, in the sum of fifteen thousand dollars, with sufficient surety to be approved by the State Treasurer, and conditioned for the faithful performance of his duties.

Statements
by banks.

Sec. 2354. The statement now required by Section 2346 shall be called for by said Bank Examiner at least four times each year and published in some newspaper in the County wherein such banking institution is located. These statements shall be sent to the State Bank Examiner within ten days from the date they are received, and shall be in such form as may be required by said officer. Any bank which fails to make report within the time given, without excuse to the Bank Examiner, shall be subject to a fine of ten dollars per day for each day's delay, collectible by said officer in any Court of competent jurisdiction.

Statements
by banks.

Sec. 2355. The quarterly statements now required by law to be published by the banking institutions in this State shall hereafter be published not quarterly as heretofore, but when and as called for, by the State Bank Examiner, without previous notice to said banking institutions, and such statements shall be called for by said Bank Examiner at least four times each year, and published in some newspaper in the County wherein such banking institution is located.

Provisions
not to apply
to National
Banks.

Sec. 2356. Nothing contained in this Article in regard to the Bank Examiner, his duties and powers shall apply to any National Bank.

Banking and
other powers
of corpora-
tion.Civ. '02, §
1774.

Sec. 2357. Every banking corporation may receive and pay out the lawful currency of the country, deal in exchange, gold and silver coin, bullion, uncurrent paper, public and other securities, and stocks of other corporations; but no more than an amount equal to one-half of the capital stock of said bank and one-half of its deposits shall be invested in mortgages of real estate at any one time; may purchase and hold such real estate and personal property as may be conveyed to it to secure debts to the corporation, or may be sold under execution to satisfy debts due in whole or in part to the corporation, and as may be deemed necessary or

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nient for the transaction of its business, and may dispose of the same at pleasure; may discount notes, of exchange, bonds and other evidences of debt, and money on such terms as may be agreed on, subject to the laws of the State. It may receive on deposit on such terms as may be agreed on with depositors, issue certificates therefor, negotiable or assignable in any way as may be inserted in the same. Said corporation may sue and be sued, plead and be impleaded, in any Court of this State; may adopt and use a corporate seal, and may alter the same at its pleasure; may adopt all such by-laws for the general management and direction of the business affairs of said corporation, not inconsistent with the laws of the United States and of this State, as may be deemed proper, and may add to, alter or amend the same from time to time as may be desired, and shall have generally all the rights, powers and privileges in law incident or pertaining to such corporations.

2358. Every bank or banking institution shall set aside to its surplus account not less than one-tenth of its net earnings each year, until its surplus shall be equal to twenty-five per centum of its capital stock; and it shall be the duty of the State Bank Examiner to enforce this in the preceding Section.

Banks to set aside funds for a surplus.

2359. Any banking corporation or trust company having a *bona fide* capital of at least twenty-five thousand dollars actually paid in, which has heretofore been authorized by its charter, granted by Act of the General Assembly, and appointed by the Secretary of State under general laws, which may hereafter be authorized by its charter, granted by general laws by the Secretary of State, to act as a guardian, trustee, receiver, assignee, executor or administrator, may be appointed executor of a will, codicil or writing entitling the testator, administrator with the will annexed, administrator of the estate of any person, receiver, assignee, guardian or trustee, under a will or instrument creating a trust for the care and management of property, and in all the same circumstances, in the same manner, and subject to the same control by the Court having jurisdiction of the same, as a legally qualified person. Any appointment as guardian shall apply to the estate and

Banking corporations authorized to act as guardian, administrator, trustee, etc.

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not to the person of the ward. Such corporation shall not be required to receive or hold property or money, or assume or execute a trust under the provisions of this Section, without its assent.

Capital stock
to be security.

Sec. 2360. The capital stock of such corporation, with the liabilities of the stockholders thereunder, shall be held as security for the faithful performance of the duties undertaken by virtue of the preceding Section, or of any similar provision of law; and except as provided in Section 2362, no surety shall be required upon the bonds filed by such corporation.

Papers to be
signed and
sworn to by
any authorized
officer.

Sec. 2361. In all proceedings in the Probate Court or elsewhere, connected with any authority exercised under the provisions of Sections 2359, 2360, 2361, and 2362, or under any similar provisions of law, all accounts, returns and other papers may be signed and sworn to, in behalf of the corporation, by any officer thereof duly authorized by it; and the answer and examinations under oath of said officer shall be received as the answers and examinations of the corporation. The Court may order and compel an officer of such corporation to answer and attend said examination in the same manner as if he, instead of the corporation, were a party to the proceeding.

Additional
security to be
furnished
upon applica-
tion.

Sec. 2362. The Court making an appointment under the provisions of Section 2359, except of a trustee, may, upon application by an interested person, require the corporation so appointed to give such security in addition to that provided by Section 2360 as the Court may consider proper; and upon failure of such corporation to give the security required, may revoke such appointment and remove such corporation from the trust.

Liability of
stockholders
of insolvent
banks.

Sec. 2363. The stockholders of all insolvent banks and banking institutions, whether heretofore or hereafter incorporated under Act of Assembly of this State, either general or special, shall be individually liable to the creditors thereof, other than depositors, only to the extent of the amount remaining due to the corporation upon the stock owned by them: *Provided*, That stockholders in all such banks and banking institutions shall be liable to depositors therein in a sum equal in amount to their stock over and above the face value of the same.

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holders not liable for ultra vires acts.—*White v. Bank*, 68 S. C., S. E., 94.

er v. Carolina Savings Bank, 53 S. C., 583; 31 S. E., 674. The of stockholders in banks organized since the adoption of the Constitution of 1895 is prescribed in Article IX, Section 18, to be in a sum amount to their stock over and above the face value of the same.

2364. The total liabilities to any such bank of any other than a Director or officer thereof, or of any any, corporation or firm, for money borrowed, including the liabilities of a company or firm the liabilities of the all members thereof, shall at no time exceed one-tenth of the amount of the capital stock of any such bank ly paid in and its surplus, except by a two-third vote e Directors of the bank, but the discount of bills of nge drawn in good faith against actual existing values ne discount of commercial or business papers shall not nsidered as money borrowed.

Limitation
of amount
that may be
borrowed by
any person
from a bank.

Civ. '02, §
1776.

2365. No Director or other officer of any such bank borrow therefrom, except on good security, to be ved in writing by two-thirds of the whole Board of tors of such bank, and no Director or other officer of uch bank shall become an endorser or surety upon any or credit made or extended to any other Director or of such bank: *Provided*, That the total liabilities to uch bank of any Director, or of any firm of which such tor is a member, or any company or corporation of such Director is an officer, shall at no time exceed nth part of the amount of the capital stock of any ank actually paid in.

Limitations
of Directors
and other of-
ficers.

Civ. '02, §
1777.

2366. The Directors of such bank may make and e by-laws, not inconsistent with law, regulating the er in which the stock of said bank shall be transferred, rectors elected or appointed, its property transferred, neral business conducted, and the privileges granted by law exercised and enjoyed. The Directors may nt all necessary officers and employees of said cor- ion, fix their compensation, and take security for the ful discharge of their respective duties, prescribe the er of paying for the stock of the corporation and the fer thereof; and may from time to time prescribe such ties for the non-payment of subscriptions to the capi- ck of the corporation as they may deem proper; and

Powers of
Directors, by-
laws and oth-
er provisions.

Civ. '02, §
1778.

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the same, together with any unpaid installments on such subscriptions, may be recovered in any Court having jurisdiction of the aggregate amount so due, or the stock may be sold for cash after twenty days' notice, advertised in the nearest newspaper; and if at any such sales the sum bid should not be sufficient to satisfy and discharge the amount so due, together with the costs and charges incident to such sale, the subscriber in default shall be liable for any deficiency, and the same may be recovered in the name of the corporation in any Court having jurisdiction. The books, papers and accounts of said bank shall be open to inspection under such regulations as may be prescribed by law.

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CHAPTER XLIV.

Foreign Corporations, Generally.

Rights and privileges granted to.
 Prerequisites to doing business in this State.
 Copy of charter and by-laws to be filed with Secretary of State, etc.
 Copies to be furnished and received in evidence.
 Penalties.
 To be subject to State Courts.
 Submission to jurisdiction of State Courts a condition precedent to doing business.
 Actions on contracts.
 What constitutes doing business in this State.
 This Chapter to be deemed part of contracts, etc.
 Administration of assets of.
 Subject to laws of the State; limitations.
 How foreign railroad corporations may obtain a charter in this State.

Sec.

2380. Irregularity not to vitiate incorporation.
 2381. Foreign railroad to become domestic corporation.
 2382. Charter in conflict with laws void.
 2383. How foreign railroad corporation shall do business in this State.
 2384. No charter to be granted unless one stockholder is a resident of this State.
 2385. When companies excused from paying certain fees.
 2386. Penalty for failure to comply with law.
 2387. Provisions shall not apply to consolidations.
 2388. Exceptions.
 2389. Liability to actions for damages.
 2390. Exceptions.
 2391. Penalty for non-compliance.
 2392. Aliens and corporations controlled by; right to hold land.

Section 2367. Foreign corporations duly incorporated under the laws of any State of the United States, or of any foreign country in treaty and amity with the said United States, are hereby permitted to locate and carry on business in the State of South Carolina in like manner and with like powers as corporations of like kind and class created under the laws of this State, subject, nevertheless, to the provisions and conditions in this Chapter hereafter set forth.

Rights and privileges granted to foreign corporations.

Civ. '02, § 1779; 1904, § XXIV, 438.

Whitcomb American Mortgage Co. v. Jones, 76 S. C., 219; 56 S. E., 983; 77 S. C., 49; 58 S. E., 417. Failure to comply with Statute does not avoid contract before conviction.—*Galletley, Receiver, v. Strickland*, 74 S. C., 394; 57 S. E., 576.

2368. Any and every such foreign corporation owning real property or doing business in this State on the 1st day of January, 1894, shall, within sixty days after the 1st day of January, 1894, and any and every such foreign corporation shall acquire property or commence to do business in

Times for Act to apply.

Civ. '02, § 1780.

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Stipulation
to be filed.

Location.

Service of
legal papers.Copy of
charter and
by-laws.Civ. '02, §
1781.Sworn state-
ment.

Contents.

Copies to be
furnished.Civ. '02, §
1782.And received
in evidence.Corporation
failing to file
certain pa-
pers; pen-
alty.Civ. '02, §
1783; 1905,
XXIV, 902.

this State after the 1st day of July, 1894, shall, within sixty days after so acquiring any property or commencing to do business in this State, file in the Secretary of State's office in this State a written stipulation or declaration, in due form, designating some place within this State as the principal place of business or place of location of said corporation in this State at which all legal papers may be served on said corporation by the delivery of the same to any officer, agent or employee of said corporation found thereon; or if none such be found thereon, then by leaving copies of the same on the premises, and that such services shall have like force and effect in all respects as service upon citizens of this State found within the limits of the same.

Sec. 2369. In addition to the same, said corporations are hereby required to file in the office of the Secretary of State together with the written stipulation or declaration aforesaid, copies of their charter and by-laws, with all amendments of the same that may from time to time be made, within sixty days from the date of making the same. In addition thereto, the said corporations are required to file annually, in the office of the Secretary of State, on or before the thirty-first day of January, a statement, sworn to by some officer of the corporation, showing the residence and postoffice address of such corporation, the amount of capital stock of the same actually paid and the names of the President and Secretary (if there be any such) and the Board of Directors, with their respective places of residence and postoffice addresses.

Sec. 2370. Any person applying for the same shall be entitled to copies, duly certified, of all the foregoing papers required to be filed upon payment of the customary fees, and the same shall be admitted in the Courts as competent evidence of all matters appearing thereon.

Sec. 2371. Any such foreign corporation failing to file any of the papers hereinbefore required to be filed, shall be liable to a forfeiture of five hundred dollars to the State, to be recovered at the suit of the State in the Court of Common Pleas, for any County in the State.

. 2372. In addition to all conditions now required by it shall be a further condition precedent to the right of any corporation created by or under the laws of any of the American Union or of the District of Columbia or of any foreign government, to do business in this State, that all actions or suits arising out of the business or transactions of such foreign corporation with any citizen or corporation of this State, or pertaining thereto, commenced in the Courts of this State, shall be tried therein, any usage or law to the contrary notwithstanding.

A. D. 1912.

Foreign corporations doing business in this State subject to the jurisdiction of the Courts of the State.

Civ. '02, § 1784.

v. Ry. Co., 72 S. C., 480; 52 S. E., 228.

. 2373. It shall be a further condition precedent to the right of any such foreign corporation to do business in this State, that it shall be taken and deemed to be a part and parcel of all contracts entered into between such foreign corporations and a citizen or corporation of this State, and the essence of such contracts, that all suits or actions of any kind whatsoever arising out of such contracts or pertaining to the same commenced in the Courts of this State shall be tried therein, any usage or law to the contrary notwithstanding.

Submission to the jurisdiction of the State Courts a condition precedent to do business in the State.

Civ. '02, § 1785.

. 2374. It shall be a further condition precedent to the right of any such corporation to do business in this State, that it shall be deemed and taken to be a part and parcel of all contracts entered into between such corporation and a citizen or corporation of this State, and of the essence of such contracts, that in all suits or actions arising out of such contracts, or pertaining thereto, the Courts of this State shall have exclusive jurisdiction thereof where actions or suits are commenced in the Courts of this State, saving to any party to such action or suit the right of appeal to the Supreme Court of the United States as may be provided by law.

The above conditions declared to be the essence of all contracts with foreign corporations.

Civ. '02, § 1786.

Finance Company held to do business in this State by lending money on mortgage.—British-American Mortgage Co. v. Jones, 76 S. C., 220; 56 S. E., 101.

. 2375. It shall be a further condition precedent to the right of any such corporation to do business in this State, that it shall be taken and deemed to be the fact, the substance, and part and parcel of all contracts entered into between such corporation and a citizen or corporation of this State.

Additional condition precedent of foreign corporations doing business in this State.

Civ. '02, § 1787.

A. D. 1912.

citizens of such State of the United States or of
gn countries, might do, and subject to the terms and
itions of this Chapter.

erty of foreign corporations complying with this Act, still subject to
ment.—Williamson v. Eastern B. & L. Ass'n., 54 S. C., 582; 32 S. E.,

2379. Each and every railroad company or railroad
oration created or organized under or by virtue of the
of any government or State other than this State and
stockholders, owners or projectors thereof, desiring to
property or carry on business or exercise any corporate
chises in this State whatsoever, shall first apply for and
n a charter and become incorporated as a corporation
his State in the following manner, that is to say:

How for-
eign railroad
corporations
may obtain a
charter in
this State.

1902, XXIII,
1053; 1909,
XXVI, 54.

corporation and the stockholders, owners or projectors
of shall file or cause to be filed in the office of the
etary of State a copy of the charter of said corporation,
authenticated in the manner directed by law for the
entication of the statutes of the State or country under
e laws such corporation is chartered or organized,
npanied by a petition signed on behalf of said com-
by its president and secretary and by one or more
e stockholders of said company, setting forth: (1) the
e of the company or corporation and the State or gov-
ment under the laws of which it was created or organ-
; (2) the residence of the stockholder or stockholders
ng in the petition; (3) the place at which the company
its principal place of business and the place at which
proposed to maintain a principal office or place of
ness in this State; (4) the total authorized capital stock
ch company; (5) that the company or corporation by
aid officers and the stockholder or stockholders signing
petition thereby apply on behalf of the corporation and
ehalf of all its stockholders, owners and projectors to be
rporated under the laws of the State of South Carolina,
power to own property and carry on business and
cise the corporate franchises of said company in this
e as a railroad corporation organized under the laws of
h Carolina; (6) any other matter which it may be desir-
to set forth in said petition. At least one of the stock-
ers signing said petition shall be a resident of this

Petition;
what must be
set forth.

A. D. 1912.

State. Upon the filing of said petition and of the copy of the charter of said company and the payment of the filing fees fixed by law and the charter fees provided in Section 2385, the Secretary of State shall issue a certificate to said corporation or company and the stockholders, owners or projectors thereof, to be known as a charter, that the said corporation or company and the stockholders, owners and projectors thereof have been fully organized and incorporated under the laws of South Carolina under the name and for the purposes indicated in said petition, with the powers given by or under such charter on file with the Secretary of State not inconsistent with the laws of this State including power to acquire or purchase on such terms as shall be agreed upon, from any other corporation or owner or owners or at judicial or foreclosure or other sale, and to build, lease, own and operate lines of railway and other property in this State, with all rights, powers, immunities, privileges and franchises, thereto belonging, and to carry on its business and exercise its corporate franchises in this State, and to hold its meetings of stockholders and directors and to make contracts and conduct its business within or without this State, but in all cases such certificate shall contain the further provision that such company is a body politic or corporate and as such may sue and be sued in any of the courts of this State, and shall be entitled to all the rights and privileges and subject to all the liabilities of railroad corporations embraced in what is called the General Railroad Law, being Chapter L of Volume I of the Code of Laws of South Carolina, 1912, and the Acts amendatory thereof, as well as any Acts now existing or hereafter to be passed regulating the duties, privileges and liabilities of railroad companies. The petition and said certificate shall be recorded by the Secretary of State in books kept by him for that purpose, and a copy of said certificate and a copy of the said charter filed in the office of the Secretary of State as aforesaid shall be recorded in the office of the Register of Mesne Conveyances or Clerk of the Court of Common Pleas in each County in this State in which the proposed line of such company or corporation is or will be situate.

A. D. 1912.

2380. No irregularity in complying with the provisions of this Article shall be held to vitiate the incorporation under the laws of this State until a direct proceeding to set aside and annul the certificate issued by the Secretary of State shall be instituted by the proper authority of the State, and all acts done and contracts entered into shall have the same force and effect as if no irregularity had

Irregularity
not to vitiate
incorporation.

2381. When the Secretary of State issues such a certificate, such foreign railroad corporation and its stockholders, owners and projectors shall *ipso facto* become a domestic corporation, and shall *ipso facto* be incorporated under the laws of this State, and shall enjoy the rights and be subject to the liabilities of a domestic corporation and may be sued in the Courts of this State and shall be subject to the jurisdiction of this State as a corporation incorporated under the laws of the State of South Carolina.

Foreign rail-
road to be-
come domes-
tic corpora-
tion.

incorporation, on complying with this Chapter, remains a non-resident corporation, within the meaning of the Act of Congress authorizing removal of cases to the United States Courts.—*Wilson v. So. Ry. Co.*, 60 S. C., 116; 701; *Calvert v. Same*, 36 S. E., 750; *McCabe v. Same*, 36 S. E., 751; *Overruling*.—*Mathis v. Ry. Co.*, 53 S. C., 257; 31 S. E., 240. *W. A. O. L. Ry. Co.*, 80 S. C., 357; 60 S. E., 938; *Best v. S. A. L. Ry. Co.*, 479; 52 S. E., 223.

withstanding compliance by a foreign corporation with these provisions, as a distinct entity as a foreign corporation, and is liable to be sued and defend as such.—*Elma v. Southern Power Co.*, 78 S. C., 323; 58 S. E., 223.

2382. If any such charter or any part thereof filed and recorded as said in the office of the Secretary of State shall be in violation or violation of the laws of this State, such charter, or such parts thereof so in conflict with the laws of this State, shall be without effect in this State.

Charter in
conflict with
laws void.

2383. Each and every railroad company created or organized under and by the laws of any government or State other than this State, and now operating any railroad in this State, either as the owners thereof or otherwise, or engaged on any business or exercising any corporate franchise in this State, shall have on or before the first day of January, 1902, applied for a charter of incorporation under the laws of this State, in the manner directed in Sections 2380, 2381 and 2382 of this Article, and no such railroad company shall carry on business or exercise any cor-

How foreign
railroad com-
panies may do
business in
in this State.

A. D. 1912.

porate franchise in this State after the said date, without having complied with the provisions of this Article.

No charter to be granted unless one stockholder is a resident of this State.

Sec. 2384. That no charter shall be granted to any such railroad company under the provisions of this Article or under the provisions of Article IV of Chapter XLVIII of Part I of this Code, unless at least one of the stockholders is a resident of this State, and all privileges heretofore acquired by any such railroad companies doing business in this State are hereby revoked and repealed on and after June 1, 1902, unless such companies have complied with the requirements of this Article.

Companies complying with Civil Code excused from paying other fees.

Sec. 2385. That all persons applying for the incorporation of any railroad company, under the provisions of this Article, shall pay the fees required by Article IV, referred to above, except such railroad companies as have complied with the provisions of an Act to provide for the incorporation of railroad companies, approved March 9, 1896, and paid the fees fixed by said Act as amended by an Act approved the 5th day of March, A. D. 1897.

Penalty for failure to comply with law.

Sec. 2386. That it shall be unlawful for any such foreign railroad company to do business, or attempt to do business, in this State without first having complied with the requirements of this Article. Any violation of this Article shall be punished by the forfeiture to the State by the party offending of a penalty of five hundred dollars, to be recovered by suit in the Court of Common Pleas, for each and every County in which such offender does or attempts to do business, or in any other Court of competent jurisdiction. And it shall be the duty of the Attorney-General to bring suit for recovery of such penalty for each and every offense.

Shall not apply to consolidations.

Sec. 2387. The provisions of this Article shall in no way abrogate or repeal the right of railroad companies to consolidate according to law or effect consolidation already made according to law, when at least one of the corporations so consolidating is a corporation of this State, with stockholders resident in this State.

Exceptions.

Sec. 2388. The foregoing provisions of this Article shall not be construed to extend to any corporation that may have heretofore become domesticated under the laws of this State passed in accordance with the terms of the Constitution of 1895.

A. D. 1912.

2389. Any railroad company referred to in Sections 2387 and 2388 of this Article, may for all causes of ^{Liability to actions for damages.} for injury to the person or property of any citizen of this State, along the line of road, arising hereafter in operation of any line of railroad which was originally chartered and operated under the laws of this State, which is now owned or leased and operated by it, or jointly with the company originally incorporated in this State, and which owned and operated said line of road; and said railroad company originally chartered in this State, or said consolidation of railroads, shall be and shall be liable upon all such causes of action, and may be a party defendant in all actions for such injuries.

2390. The provisions of this Article shall in no wise ^{Exceptions.} apply to such railroad or railway companies which have previously complied with the prior laws of this State in force at the time.

See *Co. v. Tompkins*, 48 S. C., 52; 25 S. E., 982; *Wilson v. So. Ry.* 3. E., 701. A foreign corporation could not, prior to this statute, have the stock and management of a domestic competing line.—*State v. A. Ry. Co.*, 45 S. C., 470; 23 S. E., 283.

2391. It shall be unlawful for any such foreign ^{Foreign companies must comply.} corporation to do business, or attempt to do business, in this State without first having complied with the requirements of Chapter 1794. ^{Civ. '02, § 1794.}

Chapter 1794, and any violation of this Chapter shall be punished by the forfeiture to the State, by the party offending, of a penalty of five hundred dollars, to be recovered in the Court of Common Pleas for any County in which such offender does, or attempts to do, business, or in any other Court of competent jurisdiction.

The State may question the alien's right. The assignee of an alien has no right to specific performance of contract to convey to the alien.—*Atlantic Coast Lumber Co.*, 78 S. C., 134; 59 S. E., 859. See *A. C. L. R. Co.*, 80 S. C., 357; 60 S. E., 936.

2392. No alien, or corporation controlled by aliens, shall own or control, within the limits of this State, more than five hundred acres of land: *Provided*, ^{Allens can only hold 500 acres land.} that no provision of this section shall not apply to land purchased under process, either by action or power of sale, to foreclose any mortgage hereafter acquired by any alien or corporation controlled by aliens, purchasing the same, but in such case ^{Exception.}

A. D. 1912.

such alien, or corporation controlled by aliens, shall not be entitled to hold said excess of land more than five years without sale of same, unless the Comptroller-General shall certify that a sale during that time would be materially detrimental to the interest of such alien or corporation controlled by aliens, in which case the said alien or corporation controlled by aliens, may hold the land for five years longer upon the same conditions.

Not to af-
fect vested
rights.

Nothing in this Section shall apply to lands already owned or controlled by the persons or corporations referred to in this Section nor to lands already mortgaged to such persons or corporations.

CHAPTER XLV.

Insurance.

- E 1. Insurance Department and Insurance Companies.
- E 2. Foreign Fire Insurance Companies.
- E 3. Fraternal Benefit Associations.
- E 4. Mutual Protection Associations.
- E 5. Bond, Investment, etc., Companies.

ARTICLE I.

INSURANCE DEPARTMENT AND INSURANCE COMPANIES.

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Sec.

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Sec.

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2435. Insurance companies not to circulate false information.

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2437. Certain inducements must not be offered.

Insurance
Department
established.

1908, XXV,
999.

Section 2393. There is hereby established a separate and distinct department of the State Government, to be known as the Insurance Department, which shall be charged with the enforcement and execution of the laws now in existence, and which may hereafter be passed, relating to insurance and other subjects which may be placed under the supervision of this department by the laws of this State.

Insurance
Commissioner.

Sec. 2394. The chief officer of the said department shall be denominated the Insurance Commissioner. He shall be paid an annual salary of twenty-five hundred dollars, payable in monthly installments, in the same manner as other State officers are now paid: *Provided*, The Insurance Commissioner shall have no interest in any insurance company or in any insurance agency in this State or in any State while holding said office.

To pay taxes,
etc., to State
Treasurer.

Sec. 2395. Said Insurance Commissioner shall, between the first and tenth days of each month, pay to the State Treasurer, and take his receipt therefor, all taxes, fees, licenses and other moneys collected by him according to law in the discharge of his duties during the previous month.

Election;
term of of-
fice.

Sec. 2396. Said Insurance Commissioner shall be elected by the General Assembly for a term of two years. In case a vacancy should occur, the Governor shall appoint for the unexpired term: *Provided*, That no member of the General Assembly shall be eligible to said election nor be elected to the office while a member of either branch of the General Assembly.

Bond.

Sec. 2397. Every person appointed as Insurance Commissioner shall, before entering upon or continuing to discharge the duties of his office, take the same oath of office as now

A. D. 1912.

d of other State officers, and give bond to the State, sum of twenty-five thousand dollars (\$25,000), with it surety, to be approved by the State Treasurer, for faithful performance of all of the duties required of der the law during the term of his office.

2398. There shall devolve upon said Insurance Commissioner all the duties formerly required or devolving upon the Treasurer and Comptroller-General touching or to matters pertaining to insurance of any and all

Duties of Insurance Commissioner.

2399. All expenses of the Insurance Department, including all salaries of the officers and employees, proper furniture, printing, stationery, stamps and all other and expenses, shall be paid out of the annual insurance

How expenses of the department to be paid.

1909, XXVI, 7.

partment license fees, by the State Treasurer, upon orders of the Comptroller-General, approved by the Insurance Commissioner, who shall attach itemized statements of expenditures, and shall publish the same in his annual

The Insurance Commissioner, for this purpose, shall in addition to all other license fees or taxes now or here provided by law, from all companies which shall be licensed by him to do business in this State, the following department license fees, to wit: From each life insurance

Annual license fees.

company doing business on a legal reserve basis, the sum of fifty dollars per annum; from each fire insurance company, the sum of forty dollars; from each accident or fire or surety company, the sum of forty dollars; from each company doing exclusively a marine business, the sum of twenty dollars; from each mutual company doing business in more than one County, twenty-five dollars; from each mutual company not doing business in more than one County, ten dollars; from each company not otherwise specified, five dollars. All of said insurance department license fees collected by the Insurance Commissioner, shall be paid to the State Treasurer at least once a month. A separate account shall be kept of all said fees, and any balance remaining on January 1st, of each year, shall be covered into the general treasury.

400. The Insurance Commissioner shall submit to the General Assembly, annually, a report of his official acts and transactions, and of all companies, associations or orders

Annual report.

A. D. 1912.

Duties and powers.

under his department doing business in this State, with condensed statement of their report made to him, together with a statement of all licenses, taxes and fees received by him through such companies and paid by him to the State Treasurer, and he shall at each session of the General Assembly submit, through the Governor, such annual reports and statements. The Insurance Commissioner shall make, from time to time, recommendations as to any change in the law of this State which should, in his opinion, be made, relating to insurance and other subjects under his department. He shall keep on file in his office all reports and papers received by him in the discharge of his duty. His office shall be deemed a public office, and the records, books, and papers thereof, or on file therein, shall be deemed public records of the State. He shall have a seal, with a suitable inscription, an impression of which shall be filed with the Secretary of State. Every certificate or other paper executed by said Commissioner, in pursuance of any authority conferred upon him by law, and sealed with the seal of his office, and all copies of papers certified by said Commissioner, and authenticated by his seal, shall in all cases be evidence, equally and in like manner as the original thereof, and shall have the same force and effect as the originals would have in any suit or proceeding in any Court of this State.

Clerical aid.

Sec. 2401. The Insurance Commissioner may employ in his department such clerical aid as may be necessary, not to exceed two thousand dollars per annum; and from time to time he may employ an actuary, or a deputy, or an attorney to aid in the enforcement of the laws, as such service may be needed, payment for which shall be made out of the annual department license fees herein provided.

Duties and powers of Insurance Commissioner.

1910, XXVI, 773.

Sec. 2402. Before granting a certificate of authority to do business in this State to any company, the Insurance Commissioner shall be satisfied by proper evidence that such applicant for license is duly qualified to do business under the laws of this State; that it is safe and solvent; that its dealings are fair and equitable and that it conducts its business in a manner not contrary to the public interests. He shall require every domestic company to keep its books, records, accounts and vouchers in such manner that he or his authorized representatives may readily verify them and

A. D. 1912.

whether the provisions of the law have been complied with. He shall have authority to examine into the affairs of any company doing business in this State, and shall have power to summon witnesses and take testimony as he may deem fit and proper for the protection of the public interest of the State. At least once in two years, or whenever he determines it to be prudent, he shall personally or by a deputy, visit each domestic company and personally inspect and examine its affairs, determine the value of its assets and test and declare its ability to discharge its obligations and maintain its solvency according to the legal standards. Whenever he determines it to be necessary for the protection of the policyholders in this State, he shall in like manner visit and examine or cause to be visited and examined by some competent person or persons whom he may appoint for that purpose, any foreign company applying for admission or already admitted to do business in this State, and such company shall pay the whole cost for such examination. Any person, body or corporation, partnership or association who or which make, negotiate or solicit within this State any contract of insurance or insurances or connect any person or persons with them in any policy they may at the time hold, or do any business of insurance of any kind, or make any warranty, contract or pledge for the payment of annuities or endowments or anything of value, whether the benefits thereof be fixed or contingent, to the families or representatives of any policy holder or certificate holder or the estate of any policy holder, shall be subject to the provisions of this Section. All building and loan associations, foreign land associations and such like companies not strictly insurance concerns shall be subject to the terms of this Article.

103. If the Commissioner is of opinion upon examination or other evidence that a company is in an unsound condition, that it has failed to comply with the law or with the provisions of its charter, or that its condition is such as to render its proceedings hazardous to the public or to its policyholders, or that its funds, if it is a life insurance company, are less than its liabilities, exclusive of its capital, or its officers or agents refuse to submit to examination or to perform any legal obligation relative thereto, he shall

When licenses may be
revoked or
suspended.

1909, XXVI,
10.

A. D. 1912.

revoke, or suspend all certificates of authority granted to said company, its officers or agents, and shall cause notices thereof to be published in a newspaper of general circulation in this State, and no new business shall thereafter be done by it or its agents in this State while such default or disability continues, nor until its authority to do business is restored by the Commissioner. Unless the ground for revocation relates only to the financial condition or soundness of the company, or to deficiency in its assets, he shall notify the company not less than thirty days before revoking its authority to the particulars of the alleged violation of the law, or of its charter or grounds for revocation, and the proper opportunity be afforded such company to be heard in answer thereto. During the time of suspension of certificate of authority no domestic company or officers thereof shall pay out any funds belonging to said company without first receiving the consent and approval of the Insurance Commissioner thereto.

See Criminal Code, Section 285.

Insurance
companies to
give bond be-
fore being li-
censed.

1910, XXVI,
774.

Sec. 2404. Before licensing any insurance company to do business in this State, the Insurance Commissioner shall require each such company to deposit with him an approved bond or approved securities, in the discretion of the Commissioner, as follows: Each legal reserve life insurance company, twenty thousand dollars; each fire, accident, or casualty or surety insurance company, or any company not herein specified, ten thousand dollars: *Provided*, That domestic industrial insurance companies shall in no case be required to deposit more than the legal reserve on their policies, but not less than one thousand dollars, which said deposit may be made at the rate of five hundred dollars a year, on April 1st of each year, until the whole be deposited: each domestic mutual life insurance company doing business on a recognized table of mortality with interest assumption not higher than four per centum per annum, not less than three thousand dollars. But each such domestic company shall keep on deposit with the Insurance Commissioner at all times, not less than the legal reserve on all of its outstanding policies: *Provided, further*, That the terms of this Section shall not apply to domestic mutual assessment companies not doing business in more than two adjoining coun-

A. D. 1912.

a bond be given, it shall be conditioned to pay any amount entered up against any such company in any Court of competent jurisdiction in this State, and such judgment shall be a lien upon the bond or securities. In case a bond is given, the judgment creditor shall have the right to bring an action on said bond for the satisfaction of the judgment in any county in which the judgment is received.

§405. In addition to the annual license fees now required by law, the Commissioner shall require each company of any class and all like classes of business incorporated under the laws of the State of South Carolina except benevolent institutions operating under the Lodge System, shall be required to pay semi-annually to the Insurance Commissioner as an additional and graduated license fee for a license to be delivered by him to any company or corporation, an amount equal to two per cent on the total premiums, *i. e.*, total income or total receipts from this State, less any dividend credits thereon, or, in case may be, with such company, as collected from the stockholders or residents in this State, during the six months immediately preceding the 30th day of June and 31st day of December of each year. The returns of the premiums shall be made within thirty days after the 30th day of June and the 31st day of December, and if the same are not so made, the Insurance Commissioner may suspend the license of the company until such returns are made. Such returns shall be made under oath by an executive officer and shall be in lieu of all returns: *Provided*, That the executive officer of the company shall file with the Insurance Commissioner a sworn statement, showing that at least one-fourth of the reserve on all policies issued in South Carolina are maintained in and invested in any or one of the following securities, or property, to wit: Bonds of the State, or of any County, city or town of this State; mortgage bonds on real estate in this State, or first mortgage bonds of solvent domestic corporations, whose principal office is situate entirely within this State, or any property situate in this State and taxable therein; then the annual license fee shall be one and one-half per centum on the gross receipts aforesaid; and if the amount so collected shall be three-fourths of the said reserve, the addi-

Annual license fees to be paid.

1909, XXVI, 12.

Returns of premiums collected.

A. D. 1912.

tional license fee shall be one per centum upon the gross receipts, and no additional County tax or license fee shall be levied on such companies. At the close of each semi-annual period, or as soon thereafter as possible, the Insurance Commissioner shall furnish the State Treasurer a statement showing the amount of gross premiums collected by each company in each of the several Counties of the State, and the amount of additional license fees collected thereon: and the State Treasurer shall pay unto the County Treasurer of each County one-half of the additional license fee collected as aforesaid on the gross premiums collected by each insurance company in that County: *Provided*, That nothing in this Article or any other Act shall be construed as preventing any municipality from levying and collecting license fees or taxes in accordance with its ordinances.

Affidavit to
be filed.

Sec. 2406. Before issuing a license to any company to do business in this State, the Insurance Commissioner shall require in every case that each such company shall file with him the affidavit of its president or chief executive officer so as to bind the company, that it has not violated any of the laws of this State, and that it accepts the terms and obligations imposed by the laws of this State as part of the consideration for such license.

Agents to
obtain license
from Com-
missioner.

1910, XXVI,
774.

Sec. 2407. Before soliciting business in this State for any insurance company or association, each agent shall procure from the Insurance Commissioner a license for which he shall pay one-half dollar as an annual department license fee. Before issuing such license the Insurance Commissioner shall determine that the agent is a fit and proper person. Such license shall expire on March 31st of each year. The Insurance Commissioner shall have power to revoke said license after thirty days' notice and examination whenever it shall appear that said agent has violated the laws of this State, or has wilfully deceived or dealt unjustly with a citizen of this State: *Provided*, That agents under bond may commence work upon notice and application for license being mailed to the Insurance Commissioner. Copies of all forms of policy contracts issued by companies or associations licensed to do business in this State shall be filed with the Insurance Commissioner.

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2408. Each foreign company, before being licensed business in South Carolina, shall appoint the Insurance Commissioner as its attorney to accept service, and such appointment shall continue in full force and effect so long as such company shall have outstanding policies in force in this State and until all claims of every character held by or against this State, or by the State against such company, have been settled. When legal process against any such company is served upon said Insurance Commissioner, he shall immediately notify the company of such service by registered delivery letter, prepaid and directed to its authorized representative for South Carolina, and he shall within ten days after such service forward in the same manner a copy of the process served on him. The Insurance Commissioner shall keep a record of all processes served on him, and such record shall show the day and the hour when such service was made and by whom made.

Foreign insurance companies to appoint Commissioner attorney to accept service.

1910, XXVI, 775.

2409. Any foreign mutual fire insurance company maintaining no agents, writing no business except on the business of its members and doing business without profit, shall be admitted to do business in this State on the following terms: It shall file with the Insurance Commissioner a satisfactory statement of its condition and such other information as he shall require; a copy of its charter and amendments thereto; certificate of compliance with the laws of its home State, and the appointment of the Insurance Commissioner of South Carolina as its attorney to accept service. It shall pay an annual department license fee of five dollars and the additional license fee now provided by law on the actual cost of insurance.

Foreign mutual fire insurance companies.

2410. The Insurance Commissioner in every case in which any Court in this State has appointed a receiver for a company under the supervision of the Insurance Commissioner, upon his filing a petition for intervention, shall be granted free access to the official books and papers of such company as to all matters connected therewith, during the pendency of said cause, and if, in his opinion, the receiver is not properly discharged in his duty in any way the Insurance Commissioner shall have the right to certify the same to the Court.

Commissioner to have free access to books in case of a receivership.

2411. That the additional license fee now provided for in Section 2405 shall be graduated as follows: That

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Additional
license fees
graduated.

is to say: If the investments as provided therein shall be one-fourth of the said reserve, the additional license fee shall be one and three-fourths per centum upon the receipts; if the investment be one-half of said reserve, the additional license fee shall be one and one-half per centum; if the investment therein be three-fourths of said reserve, the additional license fee shall be one and one-fourth per centum, and if the entire reserve be so invested then the additional license fee shall be one per centum: *Provided, further,* That the one-half of the said additional license fee under the terms of said Section allotted to the Counties, respectively, shall be, and is hereby, appropriated to ordinary County purposes.

Terms on
which insur-
ance compa-
nies may do
business in
this State.

1905, XXV,
841.

Sec. 2412. It shall be unlawful hereafter for any insurance company or association to transact any business in this State unless possessed of at least one hundred thousand dollars of surplus or capital, or in lieu thereof, shall file with the Comptroller-General the certificate of the official of some State of the United States, under his hand and official seal, that he holds on deposit or in trust, for the benefit of all policy holders or members of such company or association, securities worth at least one hundred thousand dollars, or in the absence of such capital or deposit, then to deposit with the State Treasurer of South Carolina valid securities aggregating ten thousand dollars, or a bond for said amount, made by a solvent security company, said Treasurer to be the judge of the validity of such securities and bond, which bond shall be conditioned to pay any judgment entered up in any Court of competent jurisdiction in this State upon a policy of insurance issued to any citizen of this State by any such company, and said judgment shall be a lien upon such securities.

When secur-
ities deposit-
ed may be
withdrawn.

Civ. '02, §
1797.

Sec. 2413. Whenever any such company or association doing business in this State desires to withdraw from this State, and will satisfy the Insurance Commissioner that all suits of which notice has been given to him have been fully satisfied or released, or whenever no notice has been given, and when all matured claims upon existing policies or certificates have been satisfied and released, then said Insurance Commissioner shall return to said company or association the securities deposited with him.

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2414. Should any such insurance company or associate violate the provisions of this Chapter, such company shall be fined in a sum not to exceed one thousand and not less than five hundred dollars, to be recovered by any Court of competent jurisdiction in this State, recovered by any citizen of this State having a policy of insurance in said company: *Provided*, That nothing in this Chapter shall release any such company, companies or person violating the provisions hereof upon any policy issued by it or them.

Penalty for violation of § 2412.

Civ. '02 § 2412.

2415. Nothing contained in Sections 2412, 2413 and 2414 shall apply to fraternal orders or lodges, nor to mutual fire insurance companies on the assessment plan incorporated in this State.

Assessment companies excepted.

Civ. '02. § 1799.

2416. Every foreign insurance company of any class—fire, life, marine, surety, security, guarantee, hail-storm, live stock, accident, plate glass, and other like insurance companies—foreign land associations, foreign building and loan associations, foreign banking associations, and other like classes of like business not incorporated under the laws of South Carolina, except national banks and benevolent institutions organized under the grand lodge system, shall each, before transacting any business in this State, pay an annual license fee of one hundred dollars to the Insurance Commissioner on or before the first day of March in each year, to be deposited by the Insurance Commissioner in the treasury of the State.

Foreign insurance and other companies must obtain license.

Civ. '02, § 1800.

It shall be unlawful for any such foreign companies as are required to pay license fees to transact any business in this State until they shall have and keep some duly appointed agent in this State, on whom legal process may be served, so as to bind the company he represents, and service of legal process upon this agent at his main office shall be sufficient to give jurisdiction to the Court issuing same in any case in this State.

The license issued by the Insurance Commissioner shall give to the company obtaining the same power and authority to appoint any number of agents to take such risks or to transact any business of insurance in each and every County of this State, and the same shall be so granted as to expire on the 31st of March of each year. But the Insurance Com-

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missioner must be notified of such appointment before such agent takes any risks or transacts any business, as aforesaid, giving the postoffice address, residence and a certified copy of the resolution appointing such agent or agents, duly signed by the president and secretary of such company.

Curnow v. Phoenix Insurance Co., 37 S. C., 406; 16 S. E., 133. Indemnity insurance contracts.—Picketts v. F. & C. Co. of N. Y., 60 S. C., 47; 38 S. E., 160.

What persons
are deemed
agents.

1910, XXVI,
554.

Who to be
considered
agents of for-
eign insurance
companies.

Civ. '02, §
1810.

Sec. 2417. A person who acts for another than himself in negotiating a contract of insurance by an insurance company or association, for the purpose of receiving remuneration therefor, shall be held to be the company's or association's agent, whatever conditions or stipulations may be contained in the policy contract.

Sec. 2418. Any person who solicits insurance in behalf of any insurance company not organized under or incorporated by the laws of this State, or who takes or transmits other than for himself any application for insurance or any policy of insurance to or from such company, or who advertises or otherwise gives notice that he will receive or transmit the same, or who shall receive or deliver a policy of insurance of any such company, or who shall examine and inspect any risk, or receive, collect, or transmit any premium of insurance, or make or forward any diagram of any building or buildings, or do or perform any other act or thing in the making or the consummating of any contract of insurance for or with any such company, other than for himself, or who shall examine into and adjust, or aid in adjusting, any loss for or in behalf of any such insurance company, whether any such acts shall be done at the instance or request or by the employment of such insurance company, shall be held to be acting as the agent of the company for which this act is done or the risk is taken.

Norris v. Hartford Fire Ins. Co., 57 S. C., 358; 35 S. E., 572.

All policies
to be issued
through resi-
dent agents.

Civ. '02, §
1811.

Sec. 2419. No fire insurance company or association not incorporated under the laws of this State, authorized to transact business here, shall make, write, place, or cause to be made, written or placed, any policy, duplicate policy, or contract of insurance of any kind or character, or any general or floating policy, upon property situated or located in this State, except after the said risk has been approved,

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...iting, by an agent who is a resident of this State,
 arly commissioned by any company doing business in
 State, who shall countersign all policies so issued, and
 e the commission thereon when the premium is paid,
 end that the State may receive the taxes required by
 o be paid on the premiums collected for insurance on
 roperty located in this State. Nothing in this Chap-
 all be construed to prevent any insurance company or
 ation, authorized to transact business in this State,
 issuing policies at its principal or department offices,
 ing property in this State: *Provided*, That such poli-
 re issued upon application procured and submitted
 h company by agents who are residents of this State,
 arly commissioned to transact the business of insur-
 herein, and who shall countersign all policies so issued
 eceive the commission thereon when paid. No pro-
 of this Section is intended to or shall apply to direct
 ance covering the rolling stock of railroad corporations
 roperty in transit while in the possession and custody
 lroad corporations or other common carriers.

Exceptions.

2420. Every fire insurance company or association
 annually, and at such other times as the Comp-
 r-General may require, in addition to all returns
 oy law required of it or its agents or managers, make
 urn to the Comptroller-General, in such form and
 as may be prescribed by him, of all reinsurance or
 ns of risk or liability contracted for or effected by it,
 er by issue of policy, entry or bordereau, or general
 ipation agreement, or by excess loss reinsurance, or in
 manner whatsoever, upon property located in this
 , or covering, whether specified or otherwise, any risk
 ibility upon property so located, such return to be
 ied by the oath of its president and secretary, if a
 any or association of one of the United States, and,
 company or association of a foreign country, by the
 of its managers in the United States, as to such rein-
 ce or cessions effected through its branch office in the
 ed States, and by the oath of its president and secre-
 or by officers corresponding thereto, at its home office,
 ever located, as to reinsurance or cessions as aforesaid
 acted for or effected through the foreign office. The

Returns as
 to re-insur-
 ance by com-
 panies.

Clv. '02, §
 1813.

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refusal of any such company or association to make the returns herein required shall be presumptive evidence that it is guilty of violating the provisions of Section 2419 of this Chapter, and shall subject it to the penalties prescribed and imposed by this Chapter.

Fire Insurance company claiming lien must establish solvency.

1910, XXVI, 695.

Sec. 2421. Any fire insurance company doing business in this State, claiming a lien upon the property insured for the premium for such insurance, shall, upon an action being brought upon such lien, or to collect such premium, establish that protection had been had by the insured and that such company during the period of insurance was solvent.

Disposition of fines, etc.

Civ. '02, § 1815.

Sec. 2422. All penalties and fines and forfeitures whatsoever collected under this Chapter shall be turned into the general fund for school purposes: *Provided, however,* That the provisions of this Chapter shall not be construed so as to prevent any policy, duplicate policy, or contract for reinsurance, from being written or placed in any fire insurance company or association which has no agent resident in this State, or prevent any mutual association or companies from issuing any policy or contract of insurance making inspections and adjustments, where the insured is paid cash dividends or return premiums.

Amount of policy on property, values to be stated; liability of company; contributive insurance.

Civ. '02, § 1816.

Sec. 2423. No fire insurance company or individual writing fire insurance policies, doing business in this State, shall issue policies for more than the value to be stated in the policy, amount of the value of the property to be insured, the amount of insurance to be fixed by insurer and insured at or before the time of issuing said policies, and in case of total loss by fire, the insured shall be entitled to recover the full amount of insurance and a proportionate amount in case of partial loss: *Provided,* Two or more policies written upon the same property shall be deemed and held contributive insurance; and if the aggregate sum of all such insurance exceed the insurable value of the property, as agreed by the insurer and the insured, in the event of a total or partial loss, each company shall be liable for its pro rata share of said insurance.

This Section does not prohibit open policies on Builders' Risk.—*Ulmer v. Phoenix Fire Ins. Co.*, 61 S. C., 459; 39 S. E., 712; the distinction between open and valued policies stated in *Riggs v. Ass'n.*, 61 S. C., 458; 39 S. E. 614. Contributive Insurance.—*Cave v. Ins. Co.*, 57 S. C., 347; 35 S. E. 577.

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2424. No statement in the application for insurance shall be held to prevent a recovery before a jury on a policy in case of partial or total loss: *Provided*, After expiration of sixty days, the insurer shall be estopped by the truth of the statement in the application for a policy which was adopted except for fraud in making the application for insurance.

Limits as to time within which statements in applications may be disputed.

Civ. '02, § 1817.

2425. Nothing in Sections 2423 and 2424 shall be held to apply to insurance on chattel or personal property.

Executions as to personality.

2426. A policy of insurance upon the life of any person which has already been or may hereafter be taken out

Civ. '02, § 1818.

which it is expressed to be for the benefit of any person, or of herself and her children, or of her husband or children of her husband, whether procured by her or her husband, shall inure to the use and benefit of the person or persons for whose use and benefit it is taken out; and the sum or net amount of insurance becoming due and payable by the terms of the policy shall be payable to the person or persons afore-
said and discharged from the claims of the representatives of the husband, or of any of his creditors, or any other parties claiming by, through or under him or them or of them: *Provided, however*, That if the premium paid in any one year out of the property or funds of the husband shall exceed the sum of five hundred dollars, the exemption from the claims of the creditors of the husband shall not apply to so much of said premium so paid as shall be in excess of five hundred dollars, but such excess, with the interest thereon, or so much thereof as may be necessary, shall inure to the benefit of such creditors if the same be necessary for their payment.

Life insurance policy for benefit of married women and children.

Civ. '02, § 1824.

2427. All life insurance companies that shall receive the premium on any policy for the space of two years shall be deemed and taken to have waived any right which they may have had to dispute the truth of the application for insurance, or that the assured person had made false representations, and the said application and representations shall be deemed and taken to be true.

When right to dispute truth of application is waived.

Civ. '02, § 1825.

2428. Life insurance companies are hereby authorized to institute proceedings to vacate policies on the ground of falsity of the representations contained in the application for insurance.

Company may sue to vacate policy for false representations within two years from date of policy.

Civ. '02, § 1826.

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Foreign surety companies may issue policies in this State on complying with the foregoing insurance laws.

Civ. '02, § 1827.

Recognizances, etc., may be made with guarantee companies as surety; when.

Civ. '02, § 1828.

Such recognizances, etc., to be approved; by whom.

Such company to comply with the law of this State.

Company executing bond estopped to deny corporate power.

Civ. '02, § 1829.

cation for said policy: *Provided*, The same be commenced within two years from the date of said policy.

Sec. 2429. Any foreign company empowered by its home charter to issue bonds or policies of suretyship may, by the consent and approval of the Governor, Comptroller-General and Secretary of State, issue said bonds in this State: *Provided*, That they comply with the law now of force in the State regulating foreign insurance companies, all of which law which is now of force is hereby made applicable to companies issuing bonds or policies of suretyship.

Sec. 2430. Whenever any recognizance, stipulation, bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such recognizance, stipulation, bond or undertaking specified, is, by the laws of the State of South Carolina, required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by a corporation empowered by its charter to issue bonds or policies of suretyship, and having power to guarantee the fidelity of persons holding positions of public or private trust, and to execute and guarantee bonds and undertakings in judicial proceedings: *Provided*, That said company shall first obtain the consent and approval of the Governor, Comptroller-General and Secretary of State as now provided by law: *Provided, further*, That such recognizance, stipulation, bond or undertaking be approved by the head of department, Court, Judge, officer, Board or body, executive, legislative or judicial, required to approve or accept the same. But no officer or person having the approval of any bond shall exact that it shall be furnished by a guarantee company or by any particular guarantee company: *Provided, further*, That said company, unless it be incorporated under the laws of the State of South Carolina, comply with the law now of force in this State regulating foreign insurance companies.

Sec. 2431. Any company which shall execute any bond as surety under the preceding Sections shall be estopped in any proceeding to enforce the liability which it shall have

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d to incur to deny its corporate powers to execute instrument or assume such liability.

2432. The State Insurance Commissioner or the Treasurer, in their official capacity, shall take and hold, How insurance companies may make deposits in this State to secure policyholders. deposits made by any domestic insurance company for the purpose of complying with the laws of any other State to enable such company to do business in such State. 1908, XXV, 1108. Any company making such deposit shall be entitled to the return thereof, and may, from time to time, with the consent of the Insurance Commissioner or Treasurer, and when authorized by the law under which the deposit is made, draw therefrom, in whole or in part, the securities which compose the deposit for other solvent securities of equal par value; and the securities to be approved by the Insurance Commissioner or Treasurer. Upon request of any domestic insurance company such officer may return to such company the whole or any portion of the securities of such company then held by him on deposit, when he shall be satisfied that the securities so asked to be returned are subject to no liability other than that required to be longer held by any provision of law in relation to the purpose of the original deposit; and he may return to the company or its trustees or other representatives authorized for that purpose, if of a foreign insurance company, any deposit made by such company, when it shall appear that such company is authorized to do business in the State and is under no liability in relation to policy holders or other persons in the State for whose benefit such deposit was made. An insurance company which has made a deposit in this State, pursuant to Chapter 11, of the Code of 1908, or its trustees or resident managers in the United States, or the State Insurance Commissioner, or the Auditor of such company, may, at any time, bring, in the Circuit Court for the County of Richland, an action against the State and other parties properly joined therein, to enforce, administer or terminate the trust created by the deposit. The process in such action shall be served on the officer of the State having the deposit, who shall appear and answer in behalf of the State and perform such duties and judgments as the Court may make in such

2433. All insurance companies incorporated under the laws of this State, whether fire, life, live stock

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Insurance
companies to
deposit with
State Treas-
urer securi-
ties or bond
to secure pol-
icyholders.

or any other form of insurance, except fraternal orders or lodges and County and Township mutual, fire, assessment and industrial life insurance companies, wind and lightning associations: *Provided*, That said companies do not write any insurance outside of the County in which organized, and one adjoining County, before doing any business in this State, shall deposit with the State Treasurer of South Carolina valid securities, aggregating ten thousand dollars (\$10,000), or a bond for said amount made by a solvent security company; said Treasurer to be the judge of the validity of such security and bond, which bond shall be conditioned to pay any judgment entered up in any Court of competent jurisdiction in this State upon policy of insurance issued to any person by any such company, and said judgment shall be a lien upon such securities or bond, and in case a bond is given, the judgment creditor shall have the right to bring suit on said bond for the satisfaction of the said judgment in the County in which the judgment is recovered: *Provided*, That the cash may be deposited with the State Treasurer, in lieu of said securities or bond: *Provided, further*, That in case securities or cash is deposited the judgment creditor shall have the right to have his execution levied upon said securities or cash so deposited with the State Treasurer to an amount sufficient to satisfy said execution.

Payment of
taxes by in-
surance com-
panies a con-
dition prece-
dent to doing
business in
this State.

Sec. 2434. Every foreign insurance company of any class—fire, life, marine, surety, security, guarantee, hail storm, live stock, accident, plate glass, and other like insurance companies—and all other like classes of like business not incorporated under the laws of the State of South Carolina, except benevolent institutions operating under the grand lodge system, shall as a condition for the privilege of entering into and doing business in this State pay all taxes and perform all duties now or hereafter prescribed by law, or having paid and recovered such taxes by suit or otherwise, shall in addition to the payment of all State and County taxes now or hereafter required by law, and the payment of all State and County taxes and the performance of all duties of any kind whatsoever imposed upon such foreign companies, shall be a condition and part of the terms upon which they are allowed to enter

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e and to do business herein: *Provided*, That nothing contained shall be construed to affect the right of corporate authorities of the cities and towns of the State to levy, assess or collect taxes or licenses from said companies for municipal purposes: *Provided*, Nothing contained in this Section shall deprive such companies of any right they may have to test, in a court established under the laws of this State which is within the jurisdiction, the constitutionality of any Act of the Legislature imposing duties or burdens upon them.

35. No life insurance company doing business in this State, and no officer, director or agent thereof, shall circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any kind representing the terms of any policy issued by it, or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof.

Insurance companies or agents not to circulate false information.

Punishment for violation this Section see Criminal Code.

36. No life insurance company doing business in this State shall make or permit any distinction in favor of one class of individuals between insurants (the insured) of the same age and equal expectation of life in the amount of the premium or of premiums or rates charged for policies of life insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. Nor shall any such company or its agent thereof, make any contract of insurance or issue any policy as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company or its officer, agent, solicitor or representative thereof pay, or give or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any employment or contract for services of any kind, or any valuable consideration or inducement whatever not provided for in the policy contract of insurance; nor give, sell or dispose of, or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks,

No distinction to be made between individuals.

Not to give rebates.

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bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon, or anything of value whatever not specified in the policy.

For punishment see Criminal Code.

Certain inducements which must not be offered.

Sec. 2437. No life insurance company shall issue in this State, nor permit its agents, officers or employees to issue in this State, agency company stock or other stock or securities, or any special or advisory board or other contract of any kind, promising returns and profits as an inducement to insurance; and on and after March 15, 1908, no life insurance company shall be authorized to do business in this State which issues, or permits its agents, officers or employees to issue, in the State of South Carolina or any other State or Territory, agency company stock, or other stock or securities or any special or advisory board or other contract of any kind promising returns and profits as an inducement to insurance; and no corporation or stock company, acting as agent of a life insurance company, nor any of its agents, officers or employees, shall be permitted to agree, sell, offer to sell or give, or offer to give directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds or agreement of any form or nature, promising returns and profits as an inducement to insurance or in connection therewith: *Provided*, That nothing herein contained shall impair or affect in any manner any such contracts issued or made as an inducement to insurance prior to the enactment hereof or prevent the payment of the dividends or returns therein stipulated to be paid. It shall be the duty of the Insurance Commissioner, upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this Section, to revoke the certificate of authority of the company or agent so offending.

Penalty.

ARTICLE II.

FOREIGN FIRE INSURANCE COMPANIES.

<p>ign fire insurance com- y not to do business ex- t as herein prescribed. ement to be made to In- ance Commissioner. nents to be made to te Treasurer. s of account to be kept. lty.</p>	<p>Sec. 2443. Insurance Commissioner may revoke licenses. 2444. State Treasurer to turn over proper proportion to cities and towns. 2445. Money to be held in trust. 2446. Certificate to be filed by cities.</p>
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2438. No foreign corporation carrying on a fire business shall hereafter engage in, carry on or re insurance business in this State save and except compliance with the conditions in this Article here- posed, as well as all other conditions now or here- posed by law.

Foreign in-
surance com-
panies not to
do business
except as
herein pre-
scribed.

39. Every fire insurance company, corporation or association incorporated under the laws of any other of any foreign government or country now or here- iring to engage in or carry on business in this State, urn to the Insurance Commissioner a just and true verified by oath, that the same is a true account emiums received from fire insurance business done he year ending December 31st in any incorporated own of this State, having, or that may have, a regu- ganized fire department under the control of the nd Council or Intendant and Council of said city , and having in serviceable condition for fire duty aratus and necessary equipments belonging thereto alue of one thousand (\$1,000) dollars and upwards. urns must be made by said companies, corporations iations within sixty days after the 31st day of er of each year.

Statement
to be made
to Insurance
Commission-
er.

440. Every fire insurance company aforesaid shall, sixty days after the 31st day of December of each eliver and pay to the State Treasurer the sum of on the \$100, and at that rate upon the amount of iums written on fire within the limits of such incor- cities or towns during the year ending December each preceding year, or for such portion of such

Payments to
be made to
State Treas-
urer.

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Books of
account to be
kept.

period as said company, corporation or association shall have done business in this State.

Sec. 2441. Every such company, corporation or association shall keep accurate books of account of all business done by them on fire insurance within the limits of such incorporated cities and towns, and in case fraud or dishonesty in said returns made by such company, corporation or association, as provided for in Section 2439 be apparent, it shall be the duty of the Insurance Commissioner to investigate such returns and collect the amount he shall find to be due.

Penalty.

Sec. 2442. Every foreign fire insurance company which shall neglect to keep such books of account as aforesaid, or shall fail or neglect to report or pay over any of the money due on premiums aforesaid, at the times and in the manner specified in this Article, or shall be found upon examination to have made a false return of business done by them, shall for each such offense forfeit \$300, to be applied to the same purposes hereinafter prescribed in Section 2445.

Insurance
Commissioner
may revoke li-
censes.

Sec. 2443. In case of making a default in payment or in case of failure to pay and satisfy any forfeiture adjudged to be due by the provisions of this Article, the Insurance Commissioner shall forthwith revoke the license of such company, or corporation or association to do business in this State, and after such revocation it shall be unlawful for such company, corporation or association to do business in this State: *Provided*, That the Insurance Commissioner may, upon compliance by such company, corporation or association with the requirements of this Article, permit it to do business in this State.

State Treas-
urer to turn
over proper
proportion to
cities and
towns.

Sec. 2444. That the State Treasurer shall pay over the amount collected upon the premiums on business done in each city or town from the foreign insurance companies, corporations or associations doing business within the cities or towns having or that may hereafter have a regular organized fire department as aforesaid in Section 2439, to the treasurer of such city or town: *Provided*, That all money so collected from the foreign insurance companies, corporations or associations doing business within the said cities or towns, shall be set apart and used by such cities and

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olely and entirely for the objects and purposes of
icle.

445. All money collected and received under the
ns of this Article shall be held in trust and used as <sup>Money to be
held in trust.</sup>
for the purpose of rendering more efficacious and
the fire departments of said cities or towns, by using
e under such rules as may be adopted by the city
council for the creation, maintenance, support and
gement of a skillful and efficient fire department.

446. The clerk of any incorporated city or town
g the benefits of this Article by ordinance as <sup>Certificate
to be filed by
cities accept-
ing provisions
of Act.</sup>
l herein shall, on or before the 31st day of October

year, make and file with the Insurance Commis-
his certificate, stating that the existence of such
ent, the number of steam, hand or other engines,
nd ladder trucks and hose carts in actual use, the
of organized companies, and the system of water
in use for such department, together with such other
s the Comptroller-General may require, on a blank
urnished by him. If the certificate required by this
is not filed with the Insurance Commissioner on or
October 31st in any year, the town or village so fail-
ile such certificate shall be deemed to have waived and
ished its rights for such year to the appropriation
ed for.

ARTICLE III.

FRATERNAL BENEFIT ASSOCIATIONS.

raternal benefit associations.
hat organizations deemed
operating under lodge sys-
tem.
owers of such associations.
o whom death benefits may
be paid.
ho may be admitted to
membership.
hat shall be specified in
certificates.
waiver of by-laws; limita-
tion.
vestment of funds.
ivision of payments.
ertificate for organization.
ransfer of membership or
fund.

Sec.

- 2458. Foreign association to be licensed.
- 2459. Commissioner to be appointed attorney.
- 2460. Benefits not subject to attachment.
- 2461. Amendments to Constitution.
- 2462. Statement of condition to be filed.
- 2463. Commissioner may examine association.
- 2464. Limitation of this Article.
- 2465. License *prima facie* evidence.
- 2466. General insurance laws.
- 2467. Organization of subordinate branches.
- 2468. Who are agents.

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Fraternal
benefit asso-
ciations.1910, XXVI,
554.What organ-
izations deem-
ed operating
under lodge
system.Powers of
such associa-
tions.

Section 2447. Any corporation, society, order or voluntary association without a capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, by a lodge system with ritualistic form of work and a representative form of government, and which may make provision for the payment of benefits, in accordance with Section 2449 hereof, is hereby declared to be a fraternal benefit association.

Sec. 2448. Any association having a supreme governing or legislative body, and subordinate lodges or branches, by whatever name known, into which members of one race only shall be elected and initiated in accordance with its constitution, rules, regulations and prescribed ritualistic ceremonies, which supreme or governing body shall meet at least every fourth year, and the subordinate lodges or branches shall be required by the laws of such association to hold regular or stated meetings at least once each month. shall be deemed to be operating on the lodge system. Any such association shall be deemed to have a representative form of government when it shall require in its constitution and laws that there be a supreme legislative or governing body composed of representatives elected either by the members or delegates elected directly or indirectly by the members, together with such members as may be prescribed by its constitution and laws: *Provided*, That the elective members shall constitute a majority in number, and have not less than a majority of the votes nor less than the votes required to amend its constitution and laws: *Provided further*, That provision shall be made for the election of at least one representative to the supreme governing body from the membership in this State.

Sec. 2449. Every association transacting business under this Act may provide for the payment of natural or accidental death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease or accident. Such association shall have the power to grant surrender values not to exceed the net value of the certificates, less any surrender charges specified by the laws of the association, and may provide for the placing of and payment for monuments to the memory of its deceased members. And each such association shall keep a separate fund for expenses,

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part of any other fund shall be used for expenses collecting, disbursing or investing the reserve or dividends, but all such expenses shall be paid out of the fund of such association.

50. The payment of death benefits shall be confined to wife, husband, relative by blood to the fourth degree ascending or descending, step-father, step-mother, children, children by legal adoption, or to a person or persons dependent upon the member: *Provided*, That if, upon the issuance of the original certificate the member becomes dependent upon the charity of an individual institution, he shall have the privilege, with the sanction of the association, to make such individual or institution his beneficiary. Within the above restrictions each member shall have the right to designate his beneficiary, and at any time to time have the same changed in accordance with the laws, rules or regulations of the association, and no beneficiary shall have or obtain any vested interest in a death benefit until the same has become due and payable at the death of said member: *Provided*, That any association may, by its laws, limit the scope of beneficiaries to the above classes.

To whom death benefits may be paid.

451. An association may admit to beneficial membership any person not less than sixteen nor more than thirty years of age, who has been examined by a competent physician, and whose examination has been supervised and approved as provided by the laws of the association: *Provided*, That when a death benefit is less than one hundred dollars a medical inspection only may be required: *And* *further*, That any association which does not require a natural death benefits shall not be required to make a medical examination, and any beneficiary member of such association who shall apply for a certificate providing for death benefits, need not be required to pass an additional medical examination therefor. Nothing herein contained shall prevent such association from accepting general members.

Who may be admitted to membership.

Medical examinations.

452. Every certificate issued by any such association shall specify the maximum amount of benefit provided for, and shall provide that the certificate, the charter or constitution of the association, the constitution and laws of the association and the application for membership and medical

What shall be specified in certificates.

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examination, signed by the applicant, shall constitute the agreement between the association and the member: *Provided*, That any changes, additions or amendments to said charter or articles of association, the constitution and laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries and shall govern and control the contract in all respects the same as though such changes, additions or amendments had been made prior thereto and were in force at the time of the application for membership.

Subordinate
bodies to have
no power to
waive pro-
visions of
laws of asso-
ciation.

Sec. 2453. No subordinate body or any of its officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the association, and the same shall be binding upon the association and each and every member thereof and their beneficiaries.

Investment
of funds.

Sec. 2454. Any domestic association may invest its funds in accordance with the statutes regulating investments of life insurance companies.

Division of
payments.

Sec. 2455. Every provision for payment by members of such an association, in whatever form made, shall distinctly state the purpose of the same, and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes, and no part of the reserve, emergency or surplus funds or the net accretions of either or of any of said funds shall be used for expenses.

Require-
ments of cer-
tificate of de-
sire to organ-
ize.

Sec. 2456. Seven or more persons, citizens of the United States, and a majority of whom are citizens of this State, who may desire to form a fraternal beneficiary association as defined by this Article, may make, sign, seal and acknowledge before some officer competent to take the acknowledgment of deeds, a certificate in writing, in which shall be stated: (a) the names and places of residence of applicants; (b) the proposed corporate name of the association, which shall not too closely resemble the name of any other similar organization; (c) the object or purpose for which the incorporation is sought, which shall not include more liberal powers than are granted by this Article: *Provided*, That any lawful, social, intellectual, moral or religious advantages may be set forth among the purposes of the association; (d) the location of the principal office of the corpora-

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e) number of trustees, directors or similar officers, their names and residences, who shall manage the conduct of the corporation for the first year or until the ensuing annual meeting. When the said certificate has been signed and acknowledged by the incorporators thereof, it shall be submitted to the Attorney-General for his approval, in conformity with this Article, and after the approval shall have been endorsed thereon, it shall be recorded in the County in which the home office of the association is located, and a certified copy thereof immediately

forwarded to the Insurance Commissioner, with a full list of the officers in charge of the association, with their residences and the location of the home office. In addition to this, proof satisfactory to the said Insurance Commissioner shall be furnished by two of the officers of the association, that at least one hundred subscribers for rates of membership have been secured in said association, and that there have been deposited to the credit of the association with the Insurance Commissioner, for the payment of death and other claims, and which amount can be used for expenses, the sum of five thousand dollars, or such sum, if advanced by the trustees, officers or directors, to be repaid to them from time to time from the proceeds of the expense fund to be created for this purpose. And no association with less than twenty thousand dollars of assets in excess of liabilities shall be licensed to do business

in this State until a like deposit is made, or a bond in like amount is given by a surety company, in the discretion of the Insurance Commissioner.

2457. No association shall transfer its membership or funds to any association not authorized by the Insurance Commissioner to transact business in this State; nor shall any such association transfer its membership or funds to any other association unless the said contract of transfer has been approved by a two-thirds vote of the members of the association whose membership is proposed to be transferred, and by a two-thirds vote of the directors of the board having charge of the association, or of the trustees, proposing to take such membership; such transfer to be approved by the Insurance Commissioner of this State in which such associations were chartered. No

Transfer of members or fund to another association; how made.

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official making such transfer shall receive any bonus or other compensation therefor.

Foreign as-
sociations to
be licensed.

Require-
ments for ad-
mission to
this State.

Decision of
Insurance
Commissioner
reviewable by
Courts.

Sec. 2458. No foreign association shall transact any business in this State without a license from the Insurance Commissioner. On seeking admission to do business in this State, such association shall file with the Insurance Commissioner a duly certified copy of its charter or article of incorporation; a copy of its constitution and laws, certified by its secretary or corresponding officer; a power of attorney to the said Insurance Commissioner as hereinafter provided; a statement under oath by its president and secretary or corresponding officers in the form herein prescribed, of its business for the preceding year; a certificate from the proper official in its home State, territory, district, province or country, that the association is legally organized, and that it is authorized to transact business therein; a copy of its application form, certificate of membership and of all circulars in use by it; and that it has the further qualifications required of domestic associations organized under this Article, and has its assets invested as required by the laws of the State, territory, district, province or country where it is organized, and such other information as the Insurance Commissioner shall require. Each association shall pay to the said Insurance Commissioner an annual department license fee of twenty-five dollars. When the said Commissioner shall refuse to license any association, or revokes its license to do business in this State, he shall reduce his ruling. order or decision to writing and file the same in his office. and shall furnish a copy thereof, together with a statement of his reasons, to the officers of the association, and the action of the said Commissioner shall be reviewable by proper proceedings in any court of competent jurisdiction within this State: *Provided, however,* That nothing contained in this or the preceding Section shall be taken or construed as preventing any such association from continuing in good faith all contracts made in this State during the time such association was legally authorized to transact business therein. No association not now licensed to do business in this State shall be admitted hereafter to do business in this State unless its methods and plans are in accord with the standards recognized as applying to fraternal asso-

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as, and the Insurance Commissioner shall be satisfied reasonable provision has been made to fulfill its contract; or that he is satisfied otherwise that such association shall be granted a license.

2459. Every association, whether domestic or foreign, hereafter applying for admission, shall, before being licensed, appoint in writing the Insurance Commissioner or his successors in office to be its true and lawful attorney in fact, upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served upon the attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this State. Copies of such appointment, certified by the Insurance Commissioner, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be had. Service shall only be made upon such attorney, and shall be made in duplicate and shall be deemed sufficient service upon such association. When legal process against such association is served upon said Insurance Commissioner, he shall forthwith forward by registered mail one of duplicate copies prepaid and directed to its secretary or corresponding officer at the head office of the association.

2460. No money or other benefit, charity or relief or other thing shall be paid, provided or rendered by any such association, nor shall the association be liable to attachment, garnishment or other process, nor shall any property be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or of any person who may have a right thereunder, either before or after payment.

2461. Every association transacting business under this article shall file with the Insurance Commissioner a certified copy of all amendments of or additions to its constitution and laws within ninety days after the enactment of the same. Printed copies of the constitution and of additions or amendments thereto, certified by the secretary or corresponding officer of the association, shall be prima facie evidence of the legal adoption thereof.

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Statement of
condition to
be filed.

Sec. 2462. Every association transacting business in this State shall annually, on or before the 31st day of March, file with the Insurance Commissioner, in such form as he shall prescribe, a statement, under oath, of its president or secretary or corresponding officers, of its condition and standing on the 31st day of December next preceding and of its transactions for the year ending on said 31st day of December.

Insurance
Commissioner
may examine
associations.

Sec. 2463. The Insurance Commissioner, or any person whom he may appoint, may examine any foreign association transacting or applying for admission to transact business in this State. The said Insurance Commissioner may employ assistants for the purpose of such examination, and he or any other person whom he may appoint shall have free access to all books, papers and documents that relate to the business of the association, and may summon and qualify as witnesses under oath and examine its officers, agents, employees and other persons in relation to the affairs, transactions and conditions of the association. He may, in his discretion, accept in lieu of such examination the examination of the Insurance Department of the State, Territory, district, province or country where such association is organized. All examinations made under the provisions of this Section shall be made at the expense of the association examined. If any such association or its officers refuse to submit to such examination, or to comply with the provisions of the Section relating thereto, the authority of such association to write new business in this State shall be revoked until satisfactory evidence is furnished the Commissioner relating to the condition and affairs of the association, and during such revocation the association shall not write any new business in this State: *Provided*, No such revocation shall be made until after at least thirty days' notice is given such association of the proposed revocation.

See Criminal Code §§ 877 and 878.

Not to ap-
ply to asso-
ciation pro-
viding no ben-
efit to mem-
bers.

Sec. 2464. This Article shall not apply to associations or lodges organized for purely social, literary or patriotic purposes, which issue no certificates of insurance or make no contracts of indemnity with its members. But the Insurance Commissioner may require from any association or lodge such information as will enable him to determine

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such society is exempt from the provisions of this or other insurance laws.

165. A duly certified copy of the license above provided shall be *prima facie* evidence in any Court proceedings in this State that the license is a fraternal association within the meaning of the Article. License *prima facie* evidence.

166. Fraternal benefit associations as defined in this Act, shall be governed by the provisions hereof, and the general insurance laws of this State in force or hereafter shall not apply to such associations unless provision has been made or may be specifically made. General insurance laws.

167. Before any person shall be authorized to organize a subordinate branch or solicit membership or act for any such association, the Insurance Commissioner shall be notified of the appointment of such person by the president or corresponding officer of such association. If not satisfactory to the Insurance Commissioner that the person is a representative of any such association in this State and is not an unfit person, or has been guilty of defrauding any person or persons by reason of being the representative of such association, he shall notify the president or corresponding officer of such association who shall revoke the authority of such person to represent such association: *Provided*, nothing in this Article shall be construed to prevent a person from soliciting applications for membership in his office unless he shall do so for the purpose of gaining a profit. Organization of subordinate branches.

168. When any fraternal insurance or beneficiary association or order or association of this or any other State, territory, or territory, now or hereafter operating within this State, and having lodges, councils, chapters, branches, subordinate or branch offices duly established and organized in this State, and when under the laws, rules or regulations of such said society, order or association, members of such association are required to pay or customarily and with the approval and consent of such said society, order or association pay premiums, dues, assessments, fines, or other contributions to any other member or person for the purpose of collecting or delivering the same to the general office, division, subordinate or branch office of such said order or association, then such said member or Who are agents of fraternal, etc., associations?

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person by whatever name or title known and called, collecting such premiums, dues, assessments, fines and payments, shall be deemed and considered the agents of said fraternal insurance, or beneficiary society, order or association.

ARTICLE IV.

MUTUAL PROTECTIVE ASSOCIATIONS.

SEC.

2469. How mutual protective associations may be formed.

2470. Form of petition for license.

2471. Approval and filing of petition.

2472. Organization of association.

2473. Rights of members.

SEC.

2474. Constitution; by-laws; directors; meetings, and regulations.

2475. Reserve fund.

2476. Lien for insurance.

2477. Associations may be joint stock company.

2478. Previous charters repealed.

How mutual protective associations may be formed.

1910, XXVI, 548.

Section 2469. Any number of persons of lawful age, citizens of this State, not less than ten in number, may associate themselves together as a mutual protection association for the indemnifying of each other for loss, on the assessment plan, and not for profit, for any one of the following purposes: (1) To insure lives or health of its members against death or disability by accident or disease; (2) to insure buildings of its members against loss or damage by fire, lightning or tempest on land; (3) to insure crops of its members against damage by hail or tempest on land; (4) to insure live stock of its members against loss or damage by accident or disease.

Such associations can only insure property of members.—*Jacobs v. Ins. Co.*, 52 S. C., 112; 29 S. E., 533; *Pearson v. Ins. Co.*, 61 S. C., 321; 30 S. E., 512.

Action against Mutual Insurance Company for breach of contract refusing to make assessments.—*Thompson v. Piedmont Mutual Ins. Co.*, 77 S. C., 486; 57 S. E., 848; *Batson & Walsh v. S. C. Mutual Ins. Co.*, 78 S. C., 309; 58 S. E., 936.

Liability of member for pro rata share of loss, assessment.—*McTinda v. Piedmont Mutual Ins. Co.*, 81 S. C., 240; 62 S. E., 213.

Form of petition for license.

Sec. 2470. Ten or more persons, wishing to form themselves into an association for any one of the purposes stated in Section 1, shall file with the Secretary of State a written declaration and petition, signed by themselves, and setting forth: (1) The names and residences of the declarants; (2)

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of the proposed association, which shall be different from the name of any association previously chartered, the name shall indicate the purpose for which the association is formed; (3) the principal place of business of the proposed association and the purpose for which it is organized, which purpose only shall be to enable its members and all who may thereafter become members, to indemnify each other against the loss specified, and to execute any contract which may be by them entered into, to which they agree to be assessed equitably for the payment of its members and the expenses of the association. Associations shall not do business or accept members in the County in which organized, except that such associations as were organized before January 1, 1909, and which have made a report to the Insurance Commissioner and are doing business in the County in which organized and one other County and no more, shall not be affected by this act.

71. The declaration and petition shall be approved by the Insurance Commissioner, and upon the production of the approval, and of the receipt for ten dollars, certified from the State Treasurer, and the payment of the costs for recording, the declaration and petition shall be filed in the office of the Secretary of State. A copy of the declaration and petition, duly certified by the Secretary of State, shall be evidence of the existence and incorporation of the association for the purposes named therein.

72. When such declaration and petition are so approved, a copy thereof, so certified, forwarded to the association, the persons named therein shall elect their directors, president, secretary and treasurer, and such other officers as may be necessary for the complete performance of the business and objects of the association herein provided for. The officers shall serve for one year and until their successors are elected and have qualified. Before such association shall be permitted to do business and before any policy shall be issued, the president and secretary shall certify, under oath, that not less than twenty-five adult residents shall be subscribed for not less than twenty-five thousand dollars of insurance and agreed to take policies of insurance within thirty days after issuance of license. Such list of

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subscribers shall be filed with the Insurance Commissioner, and the president and secretary of the association shall certify that each subscription is genuine.

Rights
members.

of **Sec. 2473.** Each policyholder of any such association shall be a member thereof and entitled to vote at all meetings and elections, and the proper officer of the association shall notify each member of every meeting and election to be held, by mailing a notice thereof, addressed to him at his last known residence, at least thirty days prior thereto, or by publishing a notice of the meeting once a week, for four weeks, in a newspaper in each County in which such association does business. Any member of said association may execute a proxy to any other member, authorizing such other to vote and act as his proxy at any meeting of the association; but no person shall vote or act as proxy for more than twenty members, or shall act or vote under the direction of one who holds or controls the proxies of more than twenty members. All proxies shall be filed with the association at least one day prior to the day of election, and shall expire within six months from their date.

Constitution;
by-laws; di-
rectors; meet-
ings; and gen-
eral regula-
tions of asso-
ciations.

Sec. 2474. Each such association shall have such officers as its constitution or by-laws may provide, and shall have at least nine directors, who, as far as practicable, shall be representatives of and live in the various townships in which there are policyholders of the association. There shall be at least one annual, general, meeting of the policyholders, and the directors shall meet at such times as shall be required, at least once a year. The directors shall be elected at the annual meeting of the policyholders; and the other officers shall be elected for not longer terms than two years, at such times and in such manner as the by-laws may direct. The compensation of each officer shall be definite and certain, and shall be fixed before the duties of office are entered upon or the service performed. An accurate account of all receipts and disbursements, together with the exact amount paid to each officer, shall be made by the treasurer to the annual meeting of policyholders, and shall be certified to the Insurance Commissioner. No officer of a mutual protection association shall give, either officially or privately, a guarantee, or estimate, to a policyholder, against an assessment to which he may be liable. If the officers of any such

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neglect or omit to levy and collect, with all the diligence, any assessment, the Insurance Com-

Constitution
and by-laws.

upon his ascertainment of such neglect or omission apply to any Court of competent jurisdiction for process to compel the performance of such neglect or

It shall be the duty of the Attorney-General, or several solicitors, upon application of the Insurance Commissioner, to institute such proceedings in the courts of the State. But any such association may defer payment for not longer than one year, provided it pays within sixty days, after due notice, by borrowing on its own note, or by other means, in accordance with its constitution or by-laws.

laws and rights under, see *Joyce v. S. C. Mutual Ins. Co.*, 54 S. E., 446; *Dickart v. Farmers Mutual Fire Association*, 52 S. E., 786.

5. Such an association may accumulate in its reserve fund, in such an amount and by such means as its constitution and by-laws permit. Such funds may be invested in such manner as its directors may direct, in accordance with the laws governing investments by insurance companies in this State. Such association may make such constitution and by-laws as may be necessary for the proper conduct of its business, and which are not in conflict with the laws of this State. But only such portions of the constitution and by-laws shall be a part of the contract as shall be printed in the policy certificate, and shall be mailed to the policyholder at his last known address.

Reserve
fund.

6. All property insured by any mutual association shall be pledged to such association, together with the title of the assured in the lands upon which it is situated, to the amount of the premium note or contingent liability, and the association shall have a lien thereon to secure payment of such note or contingent liability, but the lien shall not take effect as against third parties until the association files with the Register of Deeds or Clerk of the Court of the county in which the property insured is situated a certificate stating the date, number and amount of premium note or contingent liability, and such description of the property as will enable any person readily to identify the

Lien for insurance.

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Associations
may become
joint stock
companies.

same. The Clerk of Court or Register of Mesne Conveyance shall record and index the certificate in a book kept for such purpose, for which he shall receive the sum of fifteen cents; and all liens heretofore acquired by any such association shall continue in force under this Article.

Sec. 2477. Any mutual protection association, after having given notice once a week for six weeks of its intention to do so, and of the meeting hereinafter provided for, in a newspaper published in each County in which such association does business, may, with the consent in writing of two-thirds of the members of such association, and the consent of three-fourths of its directors, become a joint stock corporation, subject to the existing laws of this State applicable to such corporations. The policyholders of said association shall have the first right to subscribe to said stock, subject to such equitable regulations as the directors may prescribe; but all such subscriptions must be made in cash and at not less than par. The assets, if any, and the liabilities of the mutual association, shall thereupon be and become the assets of the stock company, except so far as herein otherwise provided. But it is hereby made the duty of the Insurance Commissioner to ascertain the interest in said assets of all the members of the mutual association who have not given their consent as aforesaid to the change of said association into a stock company. The interest so ascertained shall be paid over to such non-assenting members, and upon payment or tender to them of said interest so ascertained their membership shall cease and be determined. The balance of such assets, less the provision made above for the protection of outstanding policyholders, shall be deposited with the Insurance Commissioner as a guarantee fund for the payment of the policies of insurance issued by said association. The mutual policies, and the rights and liabilities attached thereto, and all the powers and obligations of the association, shall remain in force, except that such policies shall be thereafter considered as policies for the largest amount which, according to their terms, might be payable thereunder in case the assessment provided for should yield a sufficient amount to pay the same. If any certain number of assessments be specified upon said policy: *Provided, however,* That before any such association

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be entitled to levy any further assessments, even such rights have been expressly reserved in the *provided, however*, That before any such association entitled to do business as a stock company, as afore- Insurance Commissioner shall, upon request, value of the said association and its outstanding policies, find and give his certificate that the admitted he said association, including its capital stock, are to provide reserve upon all outstanding policies, as by the laws of this State in relation to insurance

'8. This Article shall not repeal the charter or organization of any mutual protection association ^{Previous charters not repealed.} under Sections 1912 to 1916 of the Code of Laws Volume I; and as to such associations, it shall affect y in so far as it may regulate the management

ARTICLE V.

BOND, INVESTMENT, ETC., COMPANIES.

in investment companies make annual report.	SEC. 2480. Contracts to be approved by Commissioner.
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2479. Every bond, investment, dividend, debenture, guaranty, loan and fidelity company, and other company, incorporated under any law of this State ^{Certain investment companies to make annual report.} other State or government, except banks and bank- ^{1910, XXVI, 546.} tutions, shall semi-annually, on the last business June and December, respectively, or within ten reafter, in each and every year, make a full report of the affairs and condition of such corporation, close of business on the last days of June and December, respectively, in each year, to the Insurance Commissioner of South Carolina, verified by oath, in such form and officers of said respective corporations as said Commissioner may designate. The said Commissioner may that a like report, either wholly or in part, as to particulars aforesaid, be made to him at any other time such corporation aforesaid within such period as he

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may designate. The Insurance Commissioner of this State may examine all such corporations in order to verify the correctness of the annual report required by law to be made to him.

Contracts to
be approved
by Insurance
Commissioner.

Sec. 2480. Before any such company shall issue or offer for sale any contracts or other securities in this State copies of same, containing the full terms of all such contracts or securities, shall be filed with the Insurance Commissioner and shall be approved by him. The Insurance Commissioner shall make public all information concerning such contracts or securities whenever called upon so to do by any citizen of this State. All laws regulating insurance companies and their agents, in so far as they may be applicable to the companies mentioned in this Article, are hereby made applicable thereto.

Licenses;
fees therefor.

All such companies shall be licensed by the Insurance Commissioner, and, on or before April 1st, of each year, shall pay an annual department license fee as follows: Those companies which shall do business in more than two adjoining Counties, fifty dollars; those which shall do business in not more than two adjoining Counties, twenty-five dollars; those which shall do business in one County, ten dollars. All such fees collected by the Insurance Commissioner shall be paid to the State Treasurer monthly, as annual insurance department license fees.

See Criminal Code § 881.

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CHAPTER XLVII.

Provisions Applicable to Corporations Generally.

Charters subject to amendment or repeal.
 Provisions applicable to all corporations except railroads and banks.
 Powers of Treasurer.
 Holders' meetings; proximo.
 Quorum.
 Time and place of meeting;
 Voting; cumulative stock.
 Dividends of stock.
 Powers of private corporations.
 Majority forms board in exercise of powers.
 May organize, etc., in two classes; else powers cease.
 Increase of stock or debt, decreased.

Appointment of Secretary of State.
 Provisions on issue of stock bonds.
 Preferred stock may be issued.
 Time of meeting.
 Necessary.
 Charter at organization.
 Conditions may be imposed on.
 In manufacturing companies.
 Laws against corporations bear interest.
 Debts due for work done in this State payable in this State.
 Right of relief fund no bar to action for damages.

SEC.

- 2504. Corporations may recover debts from their members.
- 2505. Not to issue bills of credit as a circulating medium; penalty; proviso.
- 2506. Refusal to pay taxes forfeits charter.
- 2507. Voluntary dissolution of corporations.
- 2508. Proceedings therefor.
- 2509. Powers after expiration of charter.
- 2510. Powers of directors after dissolution of corporation.
- 2511. May sue, etc.
- 2512. When receiver may be appointed.
- 2513. Jurisdiction of courts.
- 2514. Duties of Trustees or Receivers.
- 2515. Dissolution of corporation not to abate action.
- 2516. Decrees of dissolution to be filed with Clerk.
- 2517. Renewal of charters.
- 2518. Effect of.
- 2519. Subject to amendment.
- 2520. Renewals confirmed.
- 2521. Publication of lists.
- 2522. Fees allowed.
- 2523. Officers of corporation to send out on request, sworn statements.
- 2524. Any officer guilty of false statement guilty of perjury.
- 2525. Not to apply to certain corporations.

2481. It shall be deemed a part of the charter of any corporation created under the provisions of any general law, and of every charter granted, renewed or amended by any Joint Resolution of the General Assembly, (unless such Joint Resolution shall, in express terms, declare to the contrary,) that such charter, and every amendment and repeal hereof, shall always remain subject to amendment, repeal or repeal by the General Assembly.

All charters subject to amendment or repeal.

Civ. '02, § 1842.

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R. R. Co. v. Gibbs, 24 S. C., 60; Railroad Co. v. Gibbs, 27 S. C., 33; 4 S. E., 49.

Provisions
attaching to
all corpora-
tions except
railroads and
banks.

Civ. '02. §
1843; 1905,
XXIV, 842.

Liability of
stockholders.

Proviso as
to trustees.

Sec. 2482. The following provisions shall constitute a part of the charter of every corporation, other than railroad and banking corporations, already in existence under the Act of Assembly in this State, either general or special, passed since the adoption of the Constitution of 1868, or which may be at any time hereafter created under or by virtue of any Act of Assembly, general or special, to wit:

(A) The stockholders of all insolvent corporations other than banks and banking institutions, whether heretofore or hereafter incorporated under the Acts of the General Assembly of this State, either general or special, shall be individually liable to the creditors thereof only to the extent of the amount remaining due to the corporation upon the stock owned by them: *And provided, further,* That persons holding stock in such companies as trustee or executor, administrator, or by way of collateral security, shall not be personally subject to the liabilities of stockholders under the foregoing provisions, but the persons pledging such stock shall be liable to the creditors, and the estates and funds in the hands of such executors or administrators shall be liable in their hands in like manner and to the same extent as the deceased testator or intestate, or the ward or person interested in said trust estate would have been if they had respectively been living and competent to act and hold the stock in their own names.

Newton Cotton Mills v. Springs, 56 S. C., 534; 35 S. E., 222; Sadler v. Nicholson, 49 S. C., 7; 26 S. E., 898.

The liability of stockholders in insolvent corporations since the adoption of the Constitution of 1895, is governed by Article IX, Section 18 of the Constitution, which see.—Union Bank v. Wando Co., 17 S. C., 340; Bird v. Calvert, 22 S. C., 292; Hall v. Klinck, 25 S. C., 348; Parker v. Carolina Savings Bank, 53 S. C., 583; 31 S. E., 673. In order to reduce their liability to that prescribed in the Constitution of 1895, a corporation existing at the time of the adoption of that Constitution must surrender its old, and secure a new charter, as prescribed in Section 1907.—Lauraglen Mills v. Ruff, 52 S. C., 448; 30 S. E., 586. The stockholder is not entitled to set off a claim against the corporation against such liability.—Lauraglen Mills v. Ruff, 52 S. C., 53; 35 S. E., 887; Fird v. Piedmont Land Co., 55 S. C., 78; 32 S. E., 758. This liability includes damages from personal injuries.—Flenniken v. Marshall, 48 S. C., 80; 20 S. E., 788; see also Bank v. Blake, 3 Rich. Eq. 225, for liability under statute similar to new Constitution.

Fraudulent
misrepresenta-
tions.

(B) Unless some other provision for the prevention and punishment of fraudulent representations as to the capital, property and resources of such corporations shall have been

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therein, in which case the provisions in reference shall be only such as is specified in such charter, that director or other officer or stockholder of the said corporation who shall knowingly and wilfully make or cause to any fraudulent misrepresentation or misrepresentation to either the capital, property or resources of the corporation, shall be guilty of a misdemeanor, and conviction thereof shall be punished by a fine of not more than two thousand dollars (\$2,000), or imprisonment longer than two years, or both, at the discretion of the court.

Such corporations shall have power to purchase and hold real estate as may be required for their purposes, and as they may be obliged or may deem for their interest in the settlement of any debts due them, and may dispose of the same; to sue and be sued in all courts to have and to use a common seal; to elect, in such manner as they may determine to be proper, all necessary officers and fix their duties; to make by-laws and regulations consistent with the Constitution and laws of this State for the good government and the due and orderly conduct of their affairs, and the management of their property.

The shares in the capital stock of such corporations shall be deemed personal estate, except in the case of manufacturing companies, the stock in which shall be deemed real estate as stated in Section 2500, and the mode of issuing and sale of stock, and the manner, terms and conditions governing and transferring shares, shall be prescribed by the laws of each corporation.

constitutes capital stock.—State v. Hood, 15 Rich. L., 177.

No part of the capital stock or any of the funds of any corporation shall, at any time during the continuance of its charter, be used or employed, directly or indirectly, in banking operations, or for any purpose whatsoever inconsistent with the provisions of their respective charters.

Jones, Ball. Eq., 141.

of stockholders.—White v. Bank, 66 S. C., 513; 45 S. E., 94.

2483. The treasurer of any corporation in this State shall give bond in such sum and with such sureties as shall be required by the by-laws for the faithful discharge of his duties as Treasurer.

Bond of Treasurer.

Civ. '02, § 1844.

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Stockholders'
meetings.Civ. '02, §
1845.

Sec. 2484. At all meetings of any company, absent stockholders may vote by proxy, authorized in writing. Every company may determine by its by-laws what number of stockholders shall attend, either in person or by proxy, the form of such proxy, or what number of shares or amount of interest shall be represented at any meeting to constitute a quorum. If the quorum is not so determined, a majority in interest of the stockholders shall constitute a quorum.

Cumulative
stock; how
voted.Civ. '02, §
1846.

Sec. 2485. At least one meeting of stockholders of all corporations now chartered, or hereafter to be chartered in this State shall be held annually in this State, at such time and place, and upon such notice as the by-laws may provide. At all stockholders' meetings each stockholder shall be entitled to one vote for each share of stock held or owned, and shall be entitled to vote in person or by proxy for directors, trustees or managers, as provided in Section 11, of Article IX, of the Constitution of the State of South Carolina: that is to say, that in the election of directors, trustees or managers of each and every such corporation, each stockholder shall be allowed to cast in person or by proxy, as many votes as the number of shares he owns, multiplied by the number of directors, trustees or managers to be elected: the same to be cast for any one candidate or to be distributed among two or more candidates.

Certificates
of stock.Civ. '02, §
1847; 1905,
XXIV, 872.

Sec. 2486. The shares in any company shall be numbered, and every stockholder shall have a certificate, under seal of the corporation, and signed by the secretary or treasurer, certifying his property in such shares as are expressed in the certificate.

Provisions as to transfer.—*Fraser & Dill v. Charleston*, 11 S. C., 456; *Bank v. Cox*, 11 Rich. Eq., 344; *State v. McIver*, 2 S. C., 25; *Chapman v. City Council*, 28 S. C., 873; 6 S. E., 158. Mandamus to compel issuance of stock.—*State v. C. & C. Ry.*, 16 S. C., 528.

Powers of
private corpo-
rations.

Succession.

Civ. '02, §
1848.

Sec. 2487. Every private corporation, as such, has power—1. To have succession, by its corporate name, for the period limited in its charter; and when no period is limited, in perpetuity. 2. To sue and be sued. 3. To use a common seal, and to alter the same at pleasure.

Sue and be
sued.

Seal.

A deed should be under its seal.—*Bank v. Rose*, 1 Strob. Eq., 257. A simple contract may properly be, as well as a specialty.—*Central Nat'l Bank v. R. R. Co.*, 5 S. C., 156. A confession of judgment need not be.—*Thew v. M'fg. Co.*, 5 S. C., 415.

Estoppel to question sale of stock.—*Graham v. Burgess*, 78 S. C., 405; 59 S. E., 29.

hold, purchase, lease, mortgage, or otherwise dis-
and convey, such real and personal estate as is lim-
ts charter; and if not so limited, such an amount as
ness of the corporation requires.

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Real and per-
sonal estate.

R. Co. v. Blake, 9 Rich. L., 228.

appoint such subordinate officers and agents as the
of the corporation requires, prescribe their duties
heir compensation. 6. To make by-laws not incon-
ith any existing law, for the transfer of its stock, the
nent of its property or the regulation of its affairs.
eclare and create, by appropriate by-laws, a lien on
x of any stockholder in such corporation, for such
ne stockholder is or may be indebted to such corpora-
his subscription to stock therein.

Officers and
agents.

By-laws.

Lien on stock.

188. When the corporate powers are directed to
ised by any particular body or number of persons, a
of such body or persons, unless it is otherwise pro-
orm a board for the exercise of such powers.

Quorum.

Civ. '02, §
1849.

189. If any private corporation hereafter created
General Assembly, incorporated under any law, does
nize and commence the transaction of its business
wo years from the date of its incorporation or the
the commission appointing the Board of Corpora-
corporate powers shall cease.

To organize
in two years.Civ. '02, §
1850.

190. Any corporation heretofore or hereafter
or organized under any general or special Act of
gislature of this State, except railroad, railway,
7, turnpike and canal corporations, may at any time,
n time to time, increase or decrease its capital stock,
nafter provided.

Certain cor-
porations may
increase or de-
crease its cap-
ital stock.Civ. '02, §
1851; 1904,
XXIV, 486;
1908, XXIV,
72.

use of capital stock.—The capital stock of any such
ion as aforesaid may be increased as follows: When-
resolution of the Board of Directors an increase of
tal stock of the corporation is determined upon, a
of the stockholders shall be called to consider such
on, by a notice published at least once a week for
ccessive weeks previous to the date fixed in such
for meeting, in some newspaper published in the
where the corporation has its principal place of
, which notice shall state the time and place of
, the purpose for which it is called, and the maxi-

How capital
stock may be
increased.

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maximum amount to which it is proposed the capital stock shall be increased. The vote of two-thirds of the stock of the corporation shall be necessary to make an increase, which increase may be so made to any amount, not exceeding the maximum amount stated in the said notice of the meeting of stockholders. The Board of Directors shall certify the resolution of the stockholders to the Secretary of State, and that all the requirements of this Section as to such increase of capital stock have been complied with. In case the corporation so increasing its capital stock is incorporated under a general law, the Board of Directors shall likewise return to the Secretary of State the original charter or certificate of incorporation for the endorsement herein mentioned. The Secretary of State shall thereupon record the said certificate of the Board of Directors, and shall likewise endorse upon the charter or certificate of incorporation a certificate of the increase of the capital stock, and shall forthwith return the charter or certificate of incorporation with such endorsement thereon to the Board of Directors; and in cases where the law under which such corporation is created or organized, requires the charter or certificate of incorporation to be recorded in the office of the Register of Mesne Conveyance or Clerk of Court, the certificate of such increase of the capital stock, endorsed by the Secretary of State on the charter or certificate of incorporation, as hereinbefore required, shall be recorded across the face of the record of the charter or certificate of the incorporation in the office of the Register of Mesne Conveyances or Clerk of Court, where the charter or certificate of the incorporation is required to be recorded, and the increase of the capital stock of such corporation shall be authorized when the certificate is lodged for record in said office. But in cases where the corporation has been created or organized under a special Act of the Legislature, or where such corporation has been created or organized under a general law and its charter has been amended by a special Act, the Secretary of State, upon receipt of the certificate of the Board of Directors, of the resolution of the stockholders aforesaid, and that all the requirements of this Section have been complied with as aforesaid, shall forthwith issue to said corporation a certificate of the increase of

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tal stock, which certificate shall be recorded in the the Register of Mesne Conveyances or of the Clerk Court of the County in which said corporation has principal place of business; and the increase of the capital of such corporation shall be authorized when such certificate is lodged for record in said office. In cases where capital stock is increased as by this Section provided, stockholder or stockholders thereof registered on the books of said corporation at the time when such increase shall be authorized, shall have the preference of such increase of stock in proportion to the amount of stock he, she or they may then own; but if such stockholder or stockholders shall not avail himself, herself or herself of such privilege within ten days after the certificate is lodged for record of such certificate of increase of the capital stock, the Board of Directors may dispose of the increased capital stock as they may deem best at its value in money or property.

said corporation so increasing its capital stock shall file with the Secretary of State the fees required by Section 2490, which fees shall accompany the certificate of the Board of Directors. Fees to be paid.

Bank of Charleston, Dud. Law, 187. Fees for increase of capital.—Pacolet Mfg. Co. v. Gantt, 68 S. C., 199; 46 S. E., 1005. To comply with requirements of this Section in filing resolution with Secretary of State is a mere irregularity, which does not invalidate the issue.—Man v. Boykin, 79 S. C., 4; 60 S. E., 17.

2491. Decrease of capital stock. (a) When, in the event of the Board of Directors of any corporation mentioned in Section 2490, the actual capital stock of such corporation has from any cause been impaired and is less than the value of the shares representing the same, in such event the nominal capital may be reduced to what, in the event of the Board of Directors, is the actual value of the capital stock of the corporation. When the capital is thus reduced, the outstanding certificates shall be called in, and the certificates of the reduced capital apportioned among the stockholders according to their respective holdings: *Provided, however,* That such reduction shall in no way impair the liability of the stockholders to creditors upon claims existing against the corporation existing at the time of such reduction. (b) When a corporation owing no debts desires to How capital stock may be decreased.
Clv. '02, § 1852.

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reduce its capital to a given amount, and to distribute among its stockholders its capital in excess of such amount. In such case the outstanding certificates shall be called in, and the surplus capital and certificates for the reduced stock shall be apportioned among the stockholders according to their respective holdings. (c) The following provisions shall govern a reduction of capital in either of the cases mentioned: Should any stockholder or stockholders fail to surrender his, her or their certificate or certificates for conversion into certificates of the reduced stock, such certificate or certificates shall after such reduction represent only the amount of stock in the reduced capital to which the holder or holders would be entitled. Should the interest of any stockholder require the issue of a fractional part of a share, such fractional part of a share may be embodied in a certificate for one or more full shares, or, when necessary, a separate certificate issued therefor. Whenever, by resolution of the Board of Directors, a reduction of capital stock is determined upon, a meeting of the stockholders shall be called to consider such resolution by a notice published at least once a week for four successive weeks previous to the date fixed in such notice for such meeting, in some newspaper published in the County where the corporation has its principal place of business, which notice shall state the time and place of meeting, the purpose for which it is called, and the minimum amount to which it is proposed that the capital shall be reduced. The vote of two-thirds of the stock shall be necessary to make a reduction, which reduction may be made to any amount, not less than the amount stated in the said notice of the meeting of stockholders. The Board of Directors shall certify the resolution of the stockholders to the Secretary of State, and that all the requirements of this Chapter in relation to such decrease of capital stock have been complied with; and where capital is to be distributed, shall further certify that the corporation owes no debts. In case the corporation so decreasing its capital stock is incorporated under a general law, the Board of Directors shall likewise return to the Secretary of State the original charter or certificate of incorporation for the endorsement herein mentioned; the Secretary of State shall thereupon record the said certificates of the Board of

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s, and shall likewise endorse upon the charter or certificate of incorporation a certificate of the decrease or reduction of capital stock, and shall forthwith return the original or certificate of incorporation, with such endorsement, to the Board of Directors; and in cases where a corporation is created or organized under which such corporation is created or organized requires the charter or certificate of incorporation to be recorded in the office of the Register of Mesne Conveyances or Clerk of Court, the certificate of such decrease or reduction of capital stock, endorsed by the Secretary of State, shall be recorded across the face of the charter or certificate of incorporation in the office of the Register of Mesne Conveyances or Clerk of Court where the charter or certificate of incorporation is to be recorded; and such decrease or reduction of capital stock shall be authorized when the certificate is for record in said office. But in cases where the corporation has been created or organized under a general Act, and its charter has been amended by a special Act, the Secretary of State, upon the receipt of the certificate of the Board of Directors of the resolution of the stockholders aforesaid, and that the requirements of this Chapter have been complied with in relation to such decrease or reduction of capital stock, shall forthwith issue to said corporation a certificate of such decrease or reduction of capital stock, which certificate shall be recorded in the office of the Register of Mesne Conveyances or the Clerk of the County in which said corporation has its principal place of business; and the said decrease or reduction of capital stock shall be authorized when such certificate is for record in said office. For the services required by this Section of this Chapter there shall be paid to the Secretary of State a fee of five dollars, which shall be paid by the certificate of the Board of Directors.

192. All fees received by the Secretary of State under the last two Sections shall be turned over quarterly to the State Treasurer.

Fees to be
paid into the
State Treasury.

193. The Secretary of State shall annually prepare a list to be printed, and submit to the General Assembly an abstract of all certificates for the increase or

Civ. '02, §
1853.

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Secretary of State to prepare and publish lists of certificates granted, and report to General Assembly.

Civ. '02, § 1854.

decrease of the capital stock of corporations issued by him under the provisions of this Chapter; said abstract shall contain, under proper headings, the corporate name of the corporation, the date of its charter, its location, original amount of its capital stock, and such increase or decrease thereof, together with such remarks as he may deem necessary; said abstract shall be published as an appendix to the Acts and Joint Resolutions of the session of the Legislature to which such abstract is submitted; and the names of all corporations therein contained, stating whether the capital stock has been increased or decreased, shall be included in the index of said Acts and Joint Resolutions.

Payments for stock must be *bona fide*.

Civ. '02, § 1855.

Sec. 2494. Neither stock nor bonds shall be issued by any corporation except for money paid, property delivered or labor done; and all fictitious increase of stock or indebtedness shall be void.

Preferred stock.

Civ. '02, § 1856.

Sec. 2495. Any corporation heretofore or hereafter created or organized under any general or special Act of the General Assembly, may at any time and from time to time issue stock with preferences, conditions and liabilities as herein provided.

Notice.

Civ. '02, § 1857.

Sec. 2496. When the Board of Directors or Managers of any corporation as aforesaid, deem it advisable to attach conditions, preferences or liabilities to stock issued or to be issued, they shall give four weeks' notice of a stockholders' meeting to consider the authorization of such preference or preferences, liabilities or conditions. The said notice shall contain the number of shares and aggregate amount that is proposed to issue and the preferences that shall be given to, the conditions attached to, and the liabilities imposed upon the stock proposed to be issued.

Two-thirds vote.

Civ. '02, § 1858.

Sec. 2497. If two-thirds of the stock in value of the said company be present by proxy, or otherwise, at said meeting, and shall vote in favor of said preferences, conditions or liabilities, then the said preferences, conditions and liabilities shall be deemed a binding contract entered into by the aforesaid company when the stock shall have been issued and signed by the president, and attested by the secretary.

Proviso.

Civ. '02, § 1859.

Sec. 2498. At the organization of any company the aforesaid four weeks' notice shall not be necessary or required: *Provided*, The subscription list shall state the amount of

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red stock that it is proposed to issue at said organi-
 id two-thirds of the stock in value that has been
 d shall be present and vote to authorize the issue
 red stock as aforesaid.

9. To impose any conditions or to attach any Two-thirds
vote neces-
sary to at-
tach condi-
tions to stock.
 to a portion only of the stock of a corporation that
 contemplated or provided at the time said stock
 l, it shall be necessary that two-thirds of the stock
 l vote therefor after notice as aforesaid. (Civ. '02, §
1860.

10. Stocks representing shares in manufacturing Stock in
manufactur-
ing company
realty.
 ns chartered under the laws of this State shall be
 nd are hereby declared to be, realty, but the stock
 ng such shares may be transferred from one per- (Civ. '02, §
1861.
 other, for any purpose whatsoever, by the same
 are or may be allowed by law for the transfer of
 other corporations: *Provided*, The same shall not
 to any claim of dower, shall be subject to debts Transfer.

on, or upon attachment as shares of stock in
 porations and to the laws of distribution of
 intestate's estate, as if the same were personal
Provided, further, That, such stocks shall be Distribution
in cases of in-
testacy.
 the hands of the holder, from taxation when the
 n is taxed on the value of said stocks.

1. Any and all claims whatever against any and C l a i m s
against corpo-
rations to
bear interest
after 30 days.
 ations whatsoever shall bear legal interest from
 tion of thirty days after the day on which such
 y be due and payable, unless interest runs by (Civ. '02, §
1862.
 or contract from any earlier day, in which case
 or claims shall bear interest from such earlier
 further, unless a rate of interest (not usurious)
 rom the legal rate be agreed upon or contracted
 ich case the claim or claims shall bear the rate
 agreed upon or contracted for.

2. All debts due and to become due by all cor- All debts due
for work in
this State
payable in
this State.
 doing business in this State, to employees who
 this State for labor or services rendered to such
 ns within the limits of this State, shall be deemed 1905, XXIV.
962.
 be due and payable within this State.

3. When any corporation, firm or individual Receipt of
relief fund no
bar to action
for damages.
 perates what is usually called a relief depart-
 ts employees, the members of which are required 1905, XXIV,
962.

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or permitted to pay dues, fees, money or other compensation, by whatever name called, to be entitled to the benefit thereof, upon the death or injury of the employee, a member of such relief department, such corporation, firm or individual, so running or operating the same is required to pay to the person entitled to the same the amount it was agreed the employee, his heirs or other beneficiary under such contract should receive from such relief department; the acceptance of which amount shall not operate to estop, or in any way bar the right of such employee or his personal representative from recovering damages of such corporation, firm or individual for personal injury or death caused by the negligence of such corporation, firm or individual, their servants or agents, as now provided by law; and any contract or agreement to the contrary, or any receipt or release given in consideration of the payment of such sum, is and shall be null and void.

Corporations
may recover
debts from
their mem-
bers.

Civ. '02, §
1863.

Sec. 2504. All bodies corporate, in any Court in this State, may sue for, recover and receive from their respective members all arrears or other debts, dues and demands which now are or hereafter may be owing to them, in the like mode, manner and form as they might sue for, recover and receive the same from any indifferent person who might not be one of their body; any law, usage or custom to the contrary thereof in any wise notwithstanding.

Not to issue
bills of credit
as a circulat-
ing medium;
penalty; pro-
viso.

Civ. '02, §
1864.

Sec. 2505. No body politic or corporate within this State shall be allowed to issue any bills of credit in the nature of a circulating medium, or other than such as answer the purpose of contracts, under the penalty of ten dollars for each and every dollar issue; but this clause shall not be construed as to affect the chartered rights of any banking institution within this State incorporated by an Act of the Legislature.

Refusal to
pay taxes.

Civ. '02, §
1865.

Sec. 2506. Whenever any corporation chartered under the laws of this State shall, within thirty days after the time required and permitted by law for taxes to be paid, with or without penalty, as now required by law, refuse, neglect or omit to pay the taxes for State and County purposes, as assessed and levied upon the property of such corporation, the charter of such corporation, with all the rights, privileges and franchises thereunder, shall become

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med forfeited, and the corporate existence of such n shall be annulled.

Works a forfeiture.

such case it shall be the duty of the Attorney- and he is hereby required, to bring an action ch corporation for the purpose of vacating and the Act incorporating such corporation and all adatory or in renewal thereof, in the manner by Title XIII, Chapter II of the Code of Civil of this State.

Attorney-General to bring action.

7. All corporations heretofore or hereafter incor- this State, either by the Legislature, the Secretary or a Clerk of Court, shall always have the right

Voluntary dissolution of corporations.

1902, XXIII, 1036.

liquidation and to wind up their affairs, and y resolution of the stockholders representing a f capital stock had after such notice as is herein- ded; said resolution to be signed by the president ury, or other officers of the corporation, and for- the Secretary of State, to be filed and recorded in *Provided*, That such resolution shall not bar an two years thereafter against the corporation or members for any liability incurred during the f the corporation.

. In order for any corporation to go into liquida- and up its affairs and dissolve as hereinbefore

Proceedings for.

the Board of Directors, Trustees or Managers a stockholders' meeting, giving at least thirty e of the time, place and purpose of said meeting, he mailing of written notice to each stockholder, blication in some newspaper published in the ere the corporation has its principal place of r (if no paper be published in the County) by rinted notice, posted up on the court house door: That such meeting may also be called by the f the corporation, or by any stockholder owning regate 20 per cent. of the capital stock, in the ove provided. If a majority of the stock of the be present at such meeting, in person or by a resolution that such corporation shall go into and wind up its affairs and dissolve, be adopted ity vote of all the shares of capital stock, said may thereupon go into liquidation and proceed its affairs and dissolve.

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Corporations whose charter has expired or been annulled shall continue for the purpose of closing their affairs.

Civ. '02, § 1866.

Powers of directors after dissolution of corporation.

Civ. '02, § 1867.

Sec. 2509. All corporations, whether they expire by their own limitation or be annulled by the Legislature, or otherwise dissolved, shall be continued bodies corporate for the purpose of prosecuting and defending suits by or against them and of enabling them to settle and close their affairs to dispose of and convey their property and to divide their capital, but not for the purpose of continuing the business for which they were established.

Sec. 2510. Upon the dissolution in any manner of any corporation, the directors shall be trustees thereof, with full power to settle the affairs, collect the outstanding debts, sell and convey the property and divide the moneys and other property among the stockholders after paying the debts, as far as such moneys and property shall enable them; they shall have power to meet and act under the by-laws of the corporation and under regulations to be made by a majority of said trustees, to prescribe the terms and conditions of the sale of such property, and may sell all or any part for cash, or partly on credit, or take mortgages and bonds for part of the purchase price for all or any part of said property.

Action by stockholder.—*Matthews v. Bank*, 60 S. C., 200; 38 S. E., 443.
Stockholders' action against directors for mismanagement.—*Sigwald v. City Bank*, 82 S. C., 382; 64 S. E., 398.

Power to sue, etc.

Civ. '02, § 1868.

Sec. 2511. The directors constituted trustees as aforesaid shall have authority to sue for and recover the aforesaid debts and property by the name of the corporation, and shall be suable by the same name or in their own names or individual capacities for the debts owing by such corporation, and shall be jointly and severally responsible for such debts to the amount of the moneys and property of the corporation which shall come to their hands or possession as trustees.

Brookshire v. Farmers' Alliance, 73 S. C., 131; 52 S. E., 867.

When a receiver may be appointed to take charge of the effects, etc.

Civ. '02, § 1869.

Sec. 2512. When any corporation shall be dissolved in any manner whatever, any Circuit Judge of this State, acting under the laws of this State as to receivers, on application of any creditor or stockholder, at any time, may either continue the directors as trustees as aforesaid or appoint one or more persons to be receivers of such corporation to take charge of the estate and effects thereof and to collect the

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property due and belonging to the corporation, or to prosecute and defend, in the name of the corporation otherwise, all suits necessary or proper for the foresaid, and to appoint an agent or agents under whom to do all other acts which might be done by such agent, if in being, that may be necessary for the final settlement of its unfinished business; and the powers of trustees or receivers may be continued as long as the Court shall think necessary for such purposes.

3. The Court of Common Pleas and the Circuit Court chambers shall have jurisdiction of said applications of all questions arising in the proceedings thereon, and make such order and decrees therein as justice and equity shall require.

Jurisdiction
of Court of
Common Pleas
therein.

Civ. '02, §
1870.

4. The said trustees or receivers shall pay rates on all moneys and property which shall enable them, all creditors of the corporation who prove their debts in accordance with orders directed by the Court; and if any balance remain after payment of such debts and necessary expenses shall be distributed among stockholders.

Duty of trustees or receivers.

Civ. '02, §
1871.

5. Any action now pending or to be hereafter brought against any corporation which may become dissolved shall not abate by reason thereof, but judgment shall be entered therein except upon notice to the trustees or receivers of the corporation.

Dissolution
of corporation
not to abate
actions.

Civ. '02, §
1872.

6. A copy of every decree or judgment dissolving a corporation or forfeiting its charter shall be forthwith filed with the Clerk of the Court in the office of the Secretary of State, and a note thereof shall be made by the Secretary in the charter or certificate of incorporation and in the minutes of the corporation.

Decrees of
dissolution to
be filed with
Clerk of
Court.

Civ. '02, §
1873.

7. Any corporation, except railroad, railway, turnpike and canal companies, incorporated by an Act of the General Assembly of this State, the duration of whose charter is limited, may, at any time before it expires, have its charter renewed, to continue of force until the expiration of the term for which it was renewed, unless limited by the terms of the petition heretofore provided for, in the following manner, namely: The Board of Directors, Managers or Trustees of such corporation shall be filed with the Secretary of State setting forth the Act incorporating such

Renewal of
certain charters.

Civ. '02, §
1874.

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corporation and asking for the renewal and extension of its charter, whereupon the said Secretary of State, upon payment of the fees hereinafter prescribed, shall issue and deliver to such corporation a certificate of renewal and extension of its said charter, such certificate to be of the following purport:

Certificate.

The State of South Carolina: Whereas pursuant to a resolution adopted by the Board of Directors, (Trustees or Managers, as the case may be) of, a corporation created in and by an Act of the General Assembly of the State of South Carolina ratified the day of A. D. (or approved the day of, A. D., as the case may be) entitled, has filed with me its petition for renewal and extension of the Charter of said Corporation;

Now, know all men that the Charter of said Corporation is hereby renewed and extended in perpetuity (or for years, as the case may be) with all the franchises, powers, rights, privileges and immunities and subject to the responsibilities and liabilities heretofore granted to and imposed on such corporation.

Witness my hand and Seal of Office this day of, A. D.

[L. S.]

Secretary of State.

Effect of.

Civ. '02.
1875.

Sec. 2518. Upon the issuing of the certificates hereinbefore provided for, the charter of such corporation shall thereupon be renewed and extended, and such corporation shall be entitled to and vested with all the franchises, powers, rights, privileges, immunities and property enjoyed, possessed and owned by it, and subject to the responsibilities and liabilities to which it is subject, at the date of the issuing of such certificates, except that the liability of the stockholders in such corporation shall be such as is provided in the Constitution of this State and none other, and such charter shall be subject to all the provisions of said Constitution applicable to such corporation as though such provisions were expressly inserted therein. Such certificate of renewal and extension shall be recorded in the office of the Register of Mesne Conveyances, or Clerk for the County in which such corporation has its principal place of busi-

Where re-
corded.

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Each certificate of or certified copy of such record shall be evidence of the renewal and extension of such corporation.

2539 as to renewal of charters which have expired by limita-

1. All charters renewed and extended under the of Sections 2517 and 2518 shall at all times be amendment or repeal by the General Assembly.

Charters renewed subject to amendment or repeal.

2. Any and all such renewals of charters as may heretofore granted by the Secretary of State prior iration of the original charter are hereby con-validated.

Civ. '02, § 1876.

Renewals confirmed.

Civ. '02, § 1877.

3. The Secretary of State shall publish with the General Assembly a list of all such certificates and extension as he is now required by law to do of original charters issued by him.

Publication of lists.

Civ. '02, § 1878.

4. The same fees shall be allowed for such certificate as are now prescribed by law for grant-al charters.

Fees.

Civ. '02, § 1879.

5. The president or such other officer who the custody of the funds of any corporation and doing business under the laws of this State, ally, on or before the thirtieth day of December d every year, make and submit to each and every of any such corporation who may make request a writing, a general itemized statement, under ing the actual assets and liabilities of such cor-and shall deliver a copy of such statement to each such stockholder of said corporation as herein or, either in person or by mail, and proof of the any such notice as required by the terms of this ill be a sufficient compliance therewith: *Provided*, ch report it shall not be necessary to set out the any creditor of such corporation.

Officers of corporation to send out, on request, sworn statements.

1909, XXVI, 172.

6. Any officer or other officer of a corporation organized laws of this State, who shall wilfully make any ment under oath, when making and submitting required by this Section shall be deemed guilty nd corrupt perjury, and subject to the same pun-

Any officer guilty of a false statement shall be guilty of perjury.

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ishment as is provided by law for wilful and corrupt per jury.

See Criminal Code.

Not to ap-
ply to certain
corporations.

Sec. 2524. Section 2523 shall not apply to railroad corporation, nor to any banking institution which is not required by law to make an annual report to stockholders nor to building and loan associations.

CHAPTER XLVIII.

e Corporations Organized Under General Laws.

1. Business Corporations.
2. Charitable, Social and Religious Societies.
3. Railroad, Steamboat and Canal Companies.

ARTICLE I.

BUSINESS CORPORATIONS.

	Sec.
ain charters granted by retary of State; peti-	2538. Expense of obtaining char- ters limited.
l of Corporators.	2539. How charters which have ex- pired may be renewed.
riptions to stock; how	2540. Amendments confirmed.
able.	2541. Powers of corporations under this chapter.
alization, when and how	2542. When stock may be issued.
cted.	2543. Further powers.
ificate of charter.	2544. Who are eligible as directors.
ularities not to vitiate	2545. Unlimited number of direc- tors for certain corpora- tions.
oration.	2546. Books open to inspection.
l of Corporators to turn	2547. Non-use of charter for five years' works forfeiture.
r assets to company.	2548. How meetings of stockhold- ers may be called.
edings to be recorded.	2549. Right to charge for use of wharves.
for charters.	2550. Corporations subject to lia- bilities imposed by law.
tary of State to collect	2551. Manufacturing companies may join certain associa- tions.
least \$5 for a charter.	
for charter for cotton	
ling associations.	
for charter.	
corporations existing	
or to adoption of Consti-	
on of 1895 may secure	
charter.	

2525. The charter for any and every corporation, railroad, railway, turnpike and canal corporations, issued by the Secretary of State. Two or more desiring to form a corporation for any purpose, or whatsoever, or two or more combined (except for purposes), and except also for railroad, rail-
 turnpike and canal corporations, may file with the
 of State a written petition, signed by themselves,

Certain char-
 ters granted
 by Secretary
 of State; re-
 quisites for.

Civ. '02, §
 1880: 1903,
 XXIV, 75.

A. D. 1912.

setting forth: 1. The names and the residences of the petitioners. 2. The name of the proposed corporation. 3. The place at which it proposes to have its principal place of business, if any, or to be located. 4. The general nature of the business, if any, which it proposes to do. 5. The amount of capital stock, if any, and how and when payable. 6. The number of shares into which the capital stock, if any, is to be divided, and the par value, if such there be, of each share. 7. Any other matter which it may be desirable to set forth.

The place of business constitutes its legal residence, but this residence is not confined to its principal place of business.—*Cromwell v. Ins. Co.*, 2 Rich L., 512.

Board of Corporators.

Civ. '02, § 1881.

Books of subscription, etc.

Subscription; how payable.

Civ. '02, § 1882.

Sec. 2526. Upon the filing of the petition as above, and upon the payment of a fee of \$3.00 for the recording of said petition, the Secretary of State shall issue to the parties, or to any two or more of them, a commission constituting them a Board of Corporators and (where there is to be capital stock) authorizing them to open books of subscription to the capital stock of the proposed corporation after such public notice, not exceeding ten days, as he may require in said commission.

Sec. 2527. All subscriptions to the capital stock of any corporation organized under this Article shall be payable in money, or in labor or in property at its money value, and shall be listed, the labor or the property and the value thereof to be specified in the list of subscriptions; but no subscription in labor or in property shall be received unless such labor or property and the value thereof, so to be specified as aforesaid, be approved by said Board of Corporators; and in case of failure to perform the labor or to deliver the property according to the terms of the subscription, the money value thereof, as specified in the list of subscriptions, shall be paid by the subscribers.

Subscription made before Act of incorporation held binding if recognized afterwards.—*Christ Church v. Simons*, 2 Rich. L., 368. So where subscriber participates in organization of the corporation.—*G. & C. Ry. Co. v. Coleman*, 5 Rich. L., 118; *Same v. Woodsides*, *Id.*, 145; 55 Am. Dec., 708.—Conditional subscription binding.—*Spartanburg and G. Ry. Co. v. DeGraffenreid*, 12 Rich. L., 675. Not released by amendment to charter.—*Greenville v. Coleman*, *supra*. When released from subscription.—*Nettles v. Marco*, 33 S. C., 47; 11 S. E., 595. Subscription binding.—*N. E. Ry. Co. v. Rodriguez*, 10 Rich. L., 278. Necessity of signing subscription book.—*C. & S. C. Ry. Co. v. Blakeley*, 35 Strob., 245. Action to recover.—*Ramey v. Anderson*, 1

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Columbia v. Harrison, 2 Mills Const., 213. Subscription made another.—Williams v. Benet, 34 S. C., 112; 13 S. E., 97. me.—C. & C. Ry. Co. v. White, 10 S. C., 155.

3. Where not less than fifty per cent. of the pro- Organization
tal stock shall have been subscribed by *bona fide* —when and
s, the Board of Corporators shall call the sub- how perfect-
ed.
together. At such meeting of the subscribers, a Civ. '02, §
1883.

of whom in value being present in person or by
subscribers shall proceed to the organization of
any by the election from themselves of a Board
rs, Trustees or Managers, of such number as they
proper, not to exceed nine in number, which
ll manage the affairs of the corporation until their
shall have been elected, and shall have qualified
to the constitution and by-laws of the corpora-

Board of Directors, Trustees or Managers shall
e payment of the subscription to the capital either
or in such instalments as it shall see fit. The
Directors, Trustees or Managers shall elect from
er a president, and they may also elect such per-
sons as they may see fit as secretary and as treas-
atter of whom shall give such bond as they may
Provided, That in case of continuing building and

iations and other corporations of a like nature Provision as
to corpora-
tions issuing
stock in
monthly se-
ries.

ock in monthly series, the declaration may name
as the initial capital stock, and a larger amount
imate capital stock, to which the issue of the
series may extend, according to the by-laws of
oration; and when not less than fifty per cent. of

capital stock shall have been subscribed by *bona*
ribers, the meeting of the stockholders and other
gs provided for in this Article may be had: *Pro-*
ther, That the stockholders of such corporation
the power at their first meeting to adopt a by-law
for the issuing of preferred stock, having such
ivileges and to be issued in such amounts and in
er as they shall establish by their said by-laws.

pliance with charter or statutory provisions; under special
rtanburg & A. R. Co. v. Ezell, 14 S. C., 281. Conditions prece-
alization.—C. & C. R. Co. v. White, 10 S. C., 155.

9. Upon the payment to the treasurer of the cor-
or to some other officer designated for the purpose

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How certifi-
cate of char-
ter secured.Civ. '02. §
1884.

by the subscribers, of at least 20 per cent. of the aggregate amount of the capital subscribed payable in money, and also upon the delivery to such officer of at least 20 per cent of the property subscribed to the aggregate amount of the capital stock, or upon its delivery being secured by such obligations of the subscribers as the Board of Directors, Trustees or Managers may approve, the Board of Corporators, or a majority of them, shall, over their signatures certify to the Secretary of State that the requirements of this Article have been complied with. Such certificate shall be known as the return of the corporators. Upon the filing of the return, and the receipt of the charter fee hereinafter provided for, and upon the payment to him of a fee of \$3.00 for the recording of the return, the Secretary of State shall issue to the Board of Corporators a certificate, to be known as the charter, that the corporation has been fully organized according to the laws of South Carolina, under the name and for the purpose indicated in the written declaration, and that they are fully authorized to commence business under their charter, a copy of which charter shall be recorded in the office of the Register of Mesne Conveyance or Clerk for each County where such corporations shall have a business office: *Provided*, That in cases when by the terms of the declaration the capital stock of the corporation is to be paid in installments the charter may be issued when 50 per cent. of the first installments of the capital stock has been paid in and the provisions of this Article in other respects complied with. Any charter issued hereunder may wind up the affairs of the corporation by resolution of the stockholders representing the majority of the capital stock, said resolution to be signed by the president and secretary, or other officers of the corporation, and forwarded to the Secretary of State, to be filed and recorded as hereinbefore provided for declaration and return: *Provided*, That such resolution shall not bar an action for two years thereafter against the corporation or any of its members for any liability incurred during the existence of the corporation.

A copy of the certificate issued by the Secretary of State to the Board of Corporators, and known as the charter, when attested and certified by the Secretary of State or the Register of Mesne Conveyance of the County where such

is recorded, or by the deputy of either of them,
all Courts and places be evidence of the due organ-
and existence of the corporation and of the matters
in such certificate.

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1897, XXII,
523.

in receiving charter and working under it, cannot deny accept-
McKay v. Beard, 20 S. C., 156.

Charter duly certified is the highest evidence of incorporation.—
Tobacco, etc., Co. v. Phoenix Insurance Co., 76 S. C., 77; 56 S. E..

30. No irregularity in complying with the pro-
visions of this Article shall be held to vitiate the incorpora-
tion unless a direct proceeding to set aside and annul the
incorporation be instituted by the proper authorities of the State;
acts done and contracts entered into shall have the
same force and effect as if no irregularity had existed.

Irregulari-
ties not to
vitiate corpo-
ration unless
ordered by
proper pro-
ceedings.

Civ. '02, §
1885.

Irregularity in variance of name in charter and declaration can only be
set aside in direct proceedings.—Sumter Tobacco, etc., Co. v. Phoenix
Insurance Co., 76 S. C., 77; 56 S. E., 654.

31. Upon the issuance of the charter by the Sec-
retary of State, the Board of Corporators shall turn over
to the proper officers of the corporation all subscription
notes and other papers they have taken as corporators, and all
acts shall be as valid as if taken and made by the
corporators.

Board of
corporators to
turn over to
the company.

Civ. '02, §
1886.

Subscription note for stock evidence as to falsity of state-
return of corporators was excluded.—Glenn v. Rosborough, 48
S. E., 611. See citations under Sec. 2527.

32. The declaration, the corporators' commission,
corporators' return and the charter shall be recorded by
the Secretary of State in books kept by him for that pur-

Proceedings
to be record-
ed by Secre-
tary of State.

Civ. '02, §
1887.

33. The Secretary of State is hereby authorized
to collect the following fees: Upon each char-
ter issued or renewed to any corporation, payable when the
charter is issued or renewed, the sum of one mill upon
each dollar of the capital stock authorized up to and includ-
ing one hundred thousand dollars; the sum of one-half of a
mill upon each dollar of the capital stock exceeding one
hundred thousand dollars and up to and including one mil-
lion dollars; and the sum of one-fourth of a mill upon each
declaration, petition or return precedent

Fees for
charters.

Civ. '02, §
1888.

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to the granting of any commission of corporators, charter, amendment of charter or increase, or decrease of capital stock, or renewal of charter, required by law to be recorded in said office, the sum of two dollars and fifty cents for each paper so recorded; for filing each declaration or other paper, by any foreign corporation, five dollars; for filing each charter granted in another State and by-laws adopted thereunder, or either required by law to be filed, five dollars: *Provided*, That nothing herein contained shall be construed to apply to municipal charters: *Provided, further*, That nothing herein contained shall be construed to increase the fees for churches, lodges, colleges, schools or other eleemosynary organizations.

Consolidation of railroad companies.

Upon the consolidation of any railroad company there shall be paid to the Secretary of State a fee upon the capital stock of the combined company, as in the organization of a new company: *Provided*, That credit shall be given thereon for any charter fees paid by companies forming the consolidated company.

All fees collected hereunder shall be paid into the State Treasury by the Secretary of State.

Secretary of State to collect at least \$5 for a charter.

1905, XXIV, 878.

Sec. 2534. The Secretary of State shall collect and receive at least five dollars for every charter issued by him, in addition to the recording fee as provided for by law. The provisions of this Section shall not apply to eleemosynary corporations.

Fees of Secretary of State for issuing charter for cotton holding associations.

1908, XXV, 1091.

Sec. 2535. The fees to be charged by the Secretary of State for the issuing of a charter to cotton holding and storage associations, organized within this State, shall be twenty-five dollars; and, further, that no commissions shall be charged on any increase of the capital stock of such association.

Fees of B. & L. Associations.

1903, XXIV, 78; 1905, XXIV, 903.

Sec. 2536. The fees to be charged by the Secretary of State for the issuing of a charter to Building and Loan Associations organized within this State shall be twenty-five dollars; and, further, that no commissions shall be charged on any increase of the capital stock of such Associations.

Sec. 2537. Any corporation heretofore created which has not forfeited its charter, and any corporation created by the General Assembly of 1894, may surrender its charter and secure a new charter under this Article; and any such cor-

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or any corporation created under this Article may name changed or its charter amended in any part under this Article. Any corporation chartered prior to the approval of this Article, desiring to increase its stock, shall, before such increase be allowed and the same be filed and recorded, pay to the Secretary of State the fees prescribed in Section 2533: *Provided*, That the filing of such new charter or such amendments shall not in any way to prejudice the claims of creditors of such corporation or to relieve such corporation of any liability already created or assumed, but that although the corporation is rechartered under a new charter it shall be regarded as the same corporation. In order to obtain such new charter or amendment of charter, the Board of Directors, Trustees or Managers shall call a stockholders' meeting, giving thirty days' notice of the time, place and purpose of the meeting, either by the mailing of written notice to each stockholder or else by publication in some newspaper published in the County where the corporation has its principal place of business, or (if no paper be published in the County) by written or printed notice posted up on the front door: *Provided*, That such meeting may also be called by the president of the corporation, or by any stockholder owning in aggregate 20 per cent. of the capital of the corporation in the manner above provided. If a majority of the stockholders of the corporation be present at such meeting, in person or by proxy, and a resolution asking for a new charter or amendment of charter be adopted by a majority vote of the stockholders represented at the meeting, then the Board of Directors, Trustees or Managers, or a majority of them, shall certify such resolution, over their signatures, to the Secretary of State. Such resolution petitioning for such charter or amendment shall set forth the date of the charter of the company by reference to the Act of the General Assembly or to the record in the office of the Secretary of State, and shall in other respects conform to the requirements of the declaration provided for in Section 2525. The Secretary of State, upon the filing of such declaration and the payment of the charter fee in cases where an increase of capital stock is petitioned for, and upon the payment of a fee of \$3.00, shall issue to the corporation a

How certain corporations may secure a charter.

Civ. '02, § 1889.

Fees to be paid Secretary of State, etc.

A. D. 1912.

new charter or an amended charter in accordance with the terms of the petition. All papers connected with the granting of such new charters or of such amendments shall be recorded as provided in Section 2532.

Surrender of old charter and acceptance of new.—*Roye v. Charleston Savings Inst.*, 14 Rich. Eq., 54; *Lauraglen Mills v. Ruff*, 52 S. C., 448: 30 S. 586; *Attorney-General v. Clergy Soc.*, 10 Rich. Eq., 604.

See Sections 2490-2492 for provisions as to increase or decrease of capital stock.

Expenses of
charters.

Civ. '02, §
1890.

Sec. 2538. No expenses shall be attached to the granting of charters or amendments thereto further than the fees specified herein: *Provided*, That the total fees for the charter of any Church, Cemetery Company, Freemason or Odd Fellows or Knights of Pythias Lodge, or any other charitable, social, educational or religious society, shall not exceed the sum of two dollars, to be paid to the Secretary of State upon the filing of the petition for incorporation.

Charters per-
petual.

Civ. '02, §
1891.

Sec. 2539. All charters granted under the provisions of this Article shall continue of force perpetually unless limited by the terms of the petition: *Provided*, That all corporations shall always have the right to go into liquidation and to wind up their affairs, upon a stockholders' vote representing a majority of capital stock had after such notice as is provided in Section 2537.

How expired
charters may
be renewed.

If the charter of any corporation heretofore or hereafter granted by special Act, or under general laws, has expired or shall expire by limitation of time, such charter may be renewed (to continue of force perpetually unless limited by the terms of the petition, and to be subject to amendment or repeal by or under legislative authority,) in the following manner:

Form of pe-
tition.

A petition shall be filed with the Secretary of State by any three or more of the officers, stockholders or members of such corporation for renewal of the charter thereof, setting forth such charter and the date of its expiration; and thereupon the Secretary of State shall, on payment to him of the charter fees prescribed by law, issue a certificate of renewal of such charter and deliver the same to the petitioners—such certificate to be to the following purport:

“The State of South Carolina: Whereas being three or more of the officers, stockholders or members (as the case may be) of the corporation known by the name of

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name of corporation) and chartered by
 ... day of, A. D. (here state how
 chartered), have filed with me their petition for
 the charter of such corporation; Now, know all
 these presents, That the charter of the said corpora-
 tion be renewed, with all the franchises, powers,
 privileges and immunities, and subject to the responsi-
 bilities and liabilities, granted and imposed heretofore to
 such corporation, in perpetuity or for years
 (as may be). Witness my hand and seal of office
 this ... day of, A. D.

“.....,

“Secretary of State.

That upon the issuing of such certificate of renewal, that char-
 ter of such corporation shall thereupon be renewed, and the
 corporation shall be entitled to and vested with all the fran-
 chises, rights, privileges, immunities and property
 possessed and owned by it at the expiration of its
 charter in all respects as if such charter had not expired,
 except to the responsibilities and liabilities to which it
 was subject at the time of such expiration; and all acts done
 by the corporation after the expiration of its charter shall
 be as valid as if such charter had not expired.

That the charter held to relate back to prevent reverter of property.
 Church v. Zion Presbyterian Church, 23 S. C., 297; See also
 Sterville Academy, 8 Rich. Eq., 362.

That the certificate of renewal shall be recorded in the
 office of the Secretary of State's office, and also in the office of the Reg-
 istrar of Conveyances or Clerk, as required by Section
 2529 of this Article, and a certified copy thereof shall be
 provided in said Section 2529.

Record.

That the Secretary of State shall publish with the Acts of
 the General Assembly a list of all such certificates of renewal
 now required by law to do in the cases of original
 charters issued by him.

Secretary of
 State to pub-
 lish list of re-
 newals.

Sections 2517-2522 as to renewal of charters before expiration.

0. All amendments heretofore made of charters
 and franchises granted by special Act be, and the same are
 confirmed and confirmed.

Amendments
 by special
 Acts con-
 firmed.

Sections 2484 and 2485, ante, as to mode of elections by stockholders;
 Section 2482, s. d. D. and 2500 as to status
 of meetings; see Section 2489 as to time within which it must organize.

Clv. '02, §
 1892.

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Powers of
corporations
under this
Act.Civ. '02, §
1893.

Sec. 2541. Every corporation chartered under this Article shall have the following powers, to wit: 1. To have perpetual succession. 2. To sue and be sued by the corporate name. 3. To have a common seal and to alter the same at pleasure. 4. To prescribe the mode of transferring the shares of the corporation. 5. To make contracts, to loan money, to acquire and to transfer property, both real and personal, including shares of stock in other corporations possessing the same powers in such respects as individuals now enjoy. 6. To make by-laws, and all rules and regulations deemed expedient for the management of its affairs not inconsistent with the Constitution and laws of the State or of the United States.

All by-laws must be subordinate and conformable to its charter.—*Luke's Church v. Matthews*, 4 DeS., 585.

7. To have a lien upon the shares of its stockholders to enforce the payment of installments due upon the capital stock, to provide and to enforce the collection of such fines and penalties for delinquency in payments of its installments upon the capital stock as its by-laws may fix, not to exceed 10 per centum on account due. 8. To borrow money for the purpose of carrying out the objects of its charter: to make notes, bonds or other evidences of debt; and upon a vote of the stockholders, had after such notice as is provided in Section 2537, to secure the payments of its obligations by mortgage or deed in trust on all or any of its property and franchises, both real and personal: *Provided, however*, That no such notice or vote shall be required to enable the proper officers of any corporation to secure the payment of any temporary loan on promissory note or otherwise by pledge or hypothecation of any chose in action held or owned by such corporation or of the products, goods, wares or merchandise produced or manufactured by such corporation unless such notice and vote be required by the by-laws or rules of such corporation.

Deposits of title deeds by president cannot create an equitable mortgage.—*Parker v. Carolina Savings Bank*, 53 S. C., 583; 31 S. E., 673. Lien in favor of vendor under an attempted but irregular mortgage.—*Hughes v. Edisto Cypress Shingle Co.*, 51 S. C., 1; 28 S. E., 2.

Sec. 2542. No stock shall be issued by any corporation until fully paid, except in cases of corporations when by the terms of the petition the capital stock is to be paid in in

s; and no transfers of stock shall be valid except the parties thereto until the same shall have been entered upon the books of the corporation.

When stock shall be issued.

Civ. '02, § 1894.

fer entered on books of the company the original stockholder is le as such.—*Efrd v. Piedmont Land & Inv. Co.*, 55 S. C., 78;

o transfer.—*Maxwell v. Foster*, 67 S. C., 386; 45 S. E., 927. of transfer on books is necessary to affect the statutory liability. *Man v. Boykin*, 79 S. C., 7; 60 S. E., 17. *White v.*, 491; 45 S. E., 94. The vendor or assignor may compel transferee.—*Man v. Boykin*, *supra*.

l. Corporations organized for any purpose under ons of this Article shall have power to construct e a railroad, electric railway, tramway, turnpike or their own use and purposes, and shall have the ect a crossing with any existing railroad or public now provided by law for railroad corporations; hall have no power to condemn lands except for ny existing railroad or public road, as herein

Certain powers of corporations chartered under this Act.

Civ. '02, § 1895.

e Bacot, 36 S. C., 125; 15 S. E., 204, decided under former

al.—*Alderman v. Wilson Lumber Co.*, 77 S. C., 165; 57 S. E., enforced in behalf of private railroad.—*Salem Railroad Co.* 8 S. C., 1; 58 S. E., 940.

. No stockholder in any corporation organized provisions of this Article for banking purposes gible to election as a director, manager or trustee the owner of at least ten shares of stock in said

Who eligible as Director, Trustee, etc.

Civ. '02, § 1896.

. Any corporation of this State, organized for e of doing a general banking, or insurance, or ing and trust company business, or trust company one, may, by a resolution adopted at the meeting cribers for organization, or its by-laws adopted organization, provide for the election of two Directors, to wit: active and advisory, and may istinct duties to be devolved upon each of said l may elect such number of Directors for each of as may be deemed advisable, and that it may, to time, alter its by-laws with reference thereto.

Unlimited number of directors for certain corporations.

1902, XXIII, 1038; 1906, XXV, 54.

The books of any corporation organized under shall be open to the inspection of any stockholder all times.

Books opened to inspection.

Civ. '02, § 1897.

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Non-user of
charter for
five years a
forfeiture.

Civ. '02, §
1898.

How meet-
ings of stock-
holders may
be called.

Civ. '02, §
1899.

Right to
charge for
the use of
wharves.

Civ. '02, §
1900.

Corporations
subject to lia-
bilities now
imposed by
law.

Civ. '02, §
1901.

Manufactur-
ing corpora-
tions to have
the right to
become mem-
bers of cer-
tain mutual
associations.

1903, XXIV,
74.

Also may be-
come mem-
bers with a
view of af-
fording insur-
ance.

Sec. 2547. Any corporation organized under the provisions of this Article shall cease to exist by a non-user of its franchises for five years at any one time: *Provided* That this shall not relieve any stockholder of any liability incurred during the existence of said corporation.

Sec. 2548. A failure to hold meetings or elect directors or trustees or managers on the day appointed by the by-laws shall not work a forfeiture of the charter of the company but a meeting may be called hereafter by the president or by the stockholders owning one-fifth of the capital stock of the corporation, by giving such notice as the by-laws may require for annual meetings.

Sec. 2549. Any corporation organized under this Article engaged in the transportation of freight or passengers by means of steamboats or otherwise upon any of the navigable waters of this State shall have the authority to exact reasonable tolls and fees for the use of wharves or landings located upon lands that are the property of such corporation or that are under lease or control of such corporation.

Sec. 2550. Every corporation created under the provisions of this Article shall be subject to the liabilities now imposed by law, and shall have all the rights, powers and privileges now provided for by law.

Sec. 2551. Each and every manufacturing corporation of this State, whether incorporated under the provisions of any special or general Act of the General Assembly of this State, shall, in addition to all the rights, powers and franchises which they and each of them now severally possess have full power and authority to become a member of and to effect insurance of their several property, in whole or in part, in any mutual protective association or association or mutual insurance company or companies of any kind and to severally subscribe and subject themselves to all the provisions of the several constitutions or by-laws of such associations or companies.

Sec. 2552. Each and every such company shall further have full power and authority to become a member of any mutual company or association, and to severally subscribe and subject themselves to the constitution and by-laws thereof, which shall be or may have been formed or incorporated, with a view of affording to the members thereof

against, or indemnity for any accident or mishap, all be or may have been formed or incorporated of issuing warehouse or other receipts, or warehouse certificates, for the whole or any part of any eof, or for any raw product to be used by them, purpose of guaranteeing such receipts or certificates validity thereof.

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Or to issue
warehouse
certificates.

ARTICLE II.

TABLE, SOCIAL AND RELIGIOUS SOCIETIES.

	Sec.
to religious education and other societies to be issued by Secretary of State, contents, etc. certificate of such corporations. Validity not to vitiate incorporation.	2558. How such corporations may be dissolved.
	2559-60. How charters may be amended.
	2561. Certificate, evidence of incorporation.
	2562. Proceedings to be recorded.

53. The Secretary of State is hereby authorized to issue certificates of incorporation to religious, college, school, lodge, society, company or association, having no capital stock divided into shares, holding or desiring to hold property in common for religious, educational, social, fraternal, charitable or other purposes other than for the insurance of life, accident or property.

Certificates
of incorporation
to religious,
educational and
other such associations;
by whom issued.Civ. '02, §
1902.

Any lodge, church, college, school, society, or company organized for the purposes afore-mentioned after giving at least three days' public notice in the newspapers published in the County in which incorporation is perfected, file in the office of the Secretary a written declaration, signed by two or more members or agents elected or appointed to supervise or manage the affairs, setting forth: First. The names and addresses of the petitioners. Second. The name of the corporation. Third. The place at which it proposes to have its headquarters or be located. Fourth. The purpose of the proposed corporation. Sixth. The names

Declaration,
what to contain and
where filed.Civ. '02, §
1903.

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and residences of all officers, managers, trustees, directors or other officers or agents of the proposed corporation at the time the application is made; such other information as it may desire or the Secretary of State may require.

Fee for certificate.

Civ. '02, § 1904.

Sec. 2555. Upon the filing of the above declaration, and the payment of a charter fee of three dollars, the Secretary of State shall issue to the proposed corporation a certificate of incorporation for the term that may be fixed in the said declaration, or, in the absence of such limitation, in perpetuity.

Powers of corporation.

Civ. '02, § 1905.

Sec. 2556. Every corporation chartered under this Article shall have the following powers: To make contracts, to loan money, to acquire and transfer property, both real and personal, under such regulations as may be fixed in the by-laws of the said corporation, possessing the same powers in such respects as individuals now enjoy. 2. To sue and be sued by its corporate name. 3. To have a common seal, and alter the same at pleasure. 4. To make by-laws and all rules and regulations deemed expedient for its management, not inconsistent with the laws of this State and of the United States. 5. To borrow money for the purpose of carrying out the objects of its charter, to make notes, bonds or other evidences of debt, and to secure the payment of its obligations by mortgage or deed of trust or all or any of its property and franchises, both real and personal. 6. To expel or suspend members or associates. 7. To enforce the collections of dues and charges under such penalties as may be provided in the by-laws.

What necessary to vitiate incorporation.

Civ. '02, § 1906.

Sec. 2557. No irregularity in complying with the provisions of this Article shall be held to vitiate the incorporation until a direct proceeding to set aside and annul the charter be instituted by the proper authorities of the State: and all acts done and contracts entered into shall have the same force and effect as if no irregularity had existed.

How corporation may be dissolved.

Civ. '02, § 1907.

Sec. 2558. Any corporation organized for the purposes aforesaid, which has been heretofore chartered or may be chartered under this Article, which shall have accomplished the purpose for which it has been organized, or which may desire to wind up its affairs, may do so, upon a vote of a two-thirds majority of its members, at a meeting of which published notice, or written notice mailed to each member.

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en, which notice shall state the purpose of the
eting, a certificate of such fact to be filed with
y of State.

Any corporation organized for the purposes
hich has been heretofore chartered or may be
ider this Article, may have its charter amended
icular by the Secretary of State by a majority
members, at a meeting held pursuant to notice
Section 2558.

How char-
ter may be
amended.

Civ. '02, §
1908.

Any corporation sole now chartered or here-
red may have the charter of such corporation
any particular by the Secretary of State, after
otice of such proposed amendment in any news-
County where the holder of the charter resides,
for three weeks.

Notice of
amendment.

Civ. '02, §
1909.

A certified copy of the charter from the Sec-
ate, or from the Clerk of the Court or Register
onveyance of the County where said charter is
be recorded, shall be sufficient evidence of the
n of any corporation chartered under this
ny amendments thereof.

Certified copy
of charter
evidence of
incorporation.

Civ. '02, §
1910.

All papers required to be filed hereunder, and
or amendments thereof that may be granted,
rded by the Secretary of State in books kept by
t purpose. The charter or amendments shall be
thin thirty days after its receipt in the office of
Court or Register of Mesne Conveyance in the
which the corporation is organized. The Secre-
te is hereby required to publish, with the Acts
eral Assembly, a list of all charters granted

Papers to be
recorded by
Secretary of
State.

Civ. '02, §
1911.

ARTICLE III.

ROAD, STEAMBOAT AND CANAL COMPANIES.

steamboat, street y and canal corpora- how incorporated. ommission will issue, : same, etc. tions in what pay- ompany may organise.	Sec. 2567. Return to be filed with Sec- retary of State. 2568. Irregularity not to vitiate corporation. 2569. Transfer from corporators to corporation. 2570. Rights and powers of com- panies.
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Sec.

2571. Electric railway, gas and electric light companies may lease property.

2572. How charters may be amended.

2573-4. How capital stock may be increased,

2575. Duration of charters.

Sec.

2576. Meetings of stockholders.

2577. When stock is to be issued.

2578. Who may be Directors.

2579. Fictitious stock prohibited.

2580. Rights to exact toll.

2581. Fees to be paid into State Treasury.

Railroad, steamboat, street railway and canal corporation; how incorporated, powers of, etc.

Civ. '02, § 1917.

Section 2563. Three or more persons desiring to form themselves into a corporation for the purpose of building and operating a railroad, or for the purpose of carrying on a steamboat, street railway or canal business, may file with the Secretary of State a written declaration and petition signed by themselves, and setting forth:

First. The names and residence of the declarants.

Second. The name of the proposed corporation.

Third. The place at which it proposes to have its principal place of business.

Fourth. The general nature of the business it proposes to do, giving in detail all the powers and privileges which it proposes to assume or claim under the provisions of the Constitution and laws of South Carolina. And in the case of railroad corporations, the termini, route, Counties, Townships, cities and towns through which the proposed road shall pass; the total length of roads; whether any portion of it has already been constructed, and, if so, how much; the motive power proposed to be used, whether steam or electricity; and the gauge of the road, whether standard or narrow, and any other matter which declarants may deem to be important; also, whether the proposed road will be altogether within the limits of the State of South Carolina or will be extended into some other State; in the event it is proposed that such road shall be constructed to a point without the State, it shall be further shown whether the corporation organizing expects to operate the line as an independent corporation, or proposes to consolidate with some other established road or company. In case of canal and steamboat companies, the termini of the line, nature of proposed equipment, and whether it is proposed to operate a passenger or freight line, or both. In case of street railway, the city or town it proposes to do business in, and the motive power.

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The minimum amount of the capital stock upon which said capital stock may be thereafter and the par value thereof, and how payable, if payments are to be payable in instalments, the date and number of instalments.

That it is proposed to organize such corporation under the provisions of this Article, naming it by its title.

That where the corporation will have the power to take lands for rights of way, if the charter is granted, the person proposing to ask for the same shall give notice, at least four weeks before the application is made, that such application will be made, stating the time and place of the application for the same, said notice to be published in some newspaper published in the county where the right to condemn lands will be exercised under such charter, in some newspaper published in the county, for each week, for four weeks, before such application is made; and any parties desiring to oppose the same may appear and oppose the same, setting forth the facts as may sustain his reasons for said opposition, and the Secretary of State, after hearing, may refuse to grant such charter, or may grant the same on such terms as he may see fit to impose; and said charter shall be subject to repeal and amendment by the Legislature.

As determined by charter.—*R. R. Co. v. Payne*, 5 Rich., 177.

4. Upon the filing of the declaration of the petitioners above, and the payment of a fee of three dollars for recording thereof, the Secretary of State shall issue to each of them a commission constituting them incorporators, and authorizing them to open books of subscription to the capital stock of such proposed corporation, and to give such public notice, not less than thirty days, as may be required in said commission. Said notice to be published in some newspaper in each of the Counties through which proposed road shall pass; and in the case of joint stock companies, such notice to be given at the termini

When commission will issue; fee for same, books of subscription, etc.

Civ. '02, § 1918.

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Subscriptions, in what payable.

Civ. '02, § 1919.

Sec. 2565. All subscriptions to the capital stock of any corporation organized under this Article shall be payable in money or in labor, or in property at its money value. The labor or the property, or the value thereof, to be named in the list of subscription, to be approved by the Board of Corporators; and in the case of a failure to perform the labor, or to deliver the property subscribed according to the terms of subscription, or pay the true money value thereof, the Board of Corporators, in behalf of the corporation, or the Board of Directors after the corporation shall have been organized, shall have a cause of action against such subscribers as in case of other subscriptions to the capital stock of corporations as now provided by law.

When company may organize.

Civ. '02, § 1920.

Sec. 2566. When not less than fifty per cent. of the capital stock shall have been subscribed by *bona fide* subscribers, in the case of canal, steamboat and street railway companies, and in the case of railroads when not less than five hundred dollars per mile shall have been subscribed by *bona fide* subscribers, the Board of Corporators shall call the subscribers together and proceed to organize the company, with not less than three nor more than twelve directors; the election of officers shall be had in all respects as is provided for in the case of industrial corporations organizing under Section 2485.

Corporators to file with Secretary of State a return; what return must show; charter fees; issuing of charter, etc.

Civ. '02, § 1921.

Sec. 2567. Upon the completion of the organization of such corporation, it shall be the duty of the corporators to immediately file in the office of the Secretary of State a return, under their hands and seals, duly attested, sworn to or acknowledged before some officer qualified to administer an oath, that the requirements of this Article have been complied with, that at least fifty per cent. of the capital stock has been subscribed and at least twenty per cent. of the amount subscribed has been paid in or secured. In the case of railroad companies, that five hundred dollars per mile has been subscribed and at least twenty per cent. of the amount subscribed has been paid or secured, and in the event that a survey of the proposed route shall have been made, a copy of the profile map of such route shall be filed with such return; and in case no survey shall have been made, the return shall aver an intention to file such map within one year from the date of such return. Such

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ll further show the names and residence of the
 , the amount subscribed by each, and the names
 nce of the Board of Directors, President and
 of the company. Upon the filing of the return
 yment of charter fees, required by Section 2533,
 ry of State shall issue to the Board of Directors
 e, to be known as a charter, that the corporation
 ally organized, according to the laws of the State
 Carolina, under the name and for the purpose
 in the written declaration; that they are fully
 to commence business under their charter; and
 as such certificate or charter shall contain the
 ovision that such company is a body politic and
 and as such may sue and be sued in any of the
 his State; and in the case of railroad corporations
 titled to all the rights and privileges and be sub-
 the liabilities of railroad corporations embraced
 called the general railroad law, being Chapter L
 le, and Acts amendatory thereof, as well as any
 existing or hereafter to be passed regulating the
 ileges and liabilities of railroad companies. Such
 all be recorded in the office of the Register of
 iveryance or Clerk of the Court in each County
 corporation shall have a business office. In the
 et railway and steamboat companies, such charter
 orded in the office of the Register of Mesne Con-
 Clerk of the Court of the County in which their
 termini shall be, or in which said street railway
 The declaration, commission, corporators' return
 arter shall be recorded by the Secretary of State
 ept by him for that purpose: *Provided*, That
 return as herein provided be made to the Secretary
 ithin twelve months from the granting of cor-
 ommission, then all proceedings hereunder shall
 d the corporators shall be deemed to have waived
 acquired under their declaration and said com-

v. Railway, 78 S. C., 506; 53 S. E., 987.

l. No irregularity in complying with the pro-
 this Article shall be held to vitiate the corpora-
 a direct proceeding to set aside and annul the

Irregularity
 not to vitiate
 the corpora-
 tion.

Civ. '02, §
 1922.

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Corporators
to transfer to
corporation,
etc.

Civ. '02, §
1923.

Rights and
powers of
railroad and
street railway
corporations.

Civ. '02, §
1924; 1909,
XXVI, 45.

Electric rail-
way, gas and
electric light
companies
may lease
property.

1908, XXV,
1090.

How char-
ters may be
amended by
the Secretary
of State.

Civ. '02, §
1925.

charter be instituted by the proper authority of the State; and all acts done and contracts entered into shall have the same force and effect as if no irregularity had existed.

Sec. 2569. Upon the issuance of a charter by the Secretary of State, the Board of Corporators shall turn over to the proper officers of the corporation all subscription lists or other papers they have taken as corporators, and all such papers shall be as valid as if taken and made by the incorporation.

Sec. 2570. All railroad corporations organized under the provisions of this Article shall be privileged to acquire rights of way not exceeding seventy-five feet from center of track in each direction, and additional land necessary for deep cuts, high fills, borrow pits, and streams, and highway changes made necessary by the construction of the railroad: *Provided*, That in no case shall the right of way acquired exceed one hundred and fifty feet from the center of the track in each direction; and exercise the same powers with relation to said tracks, depots, crossing other railroads, highways and streams, as railroads chartered by the General Assembly; and any street railway corporation organized under the provisions of this Article, or where charter may be amended hereunder, shall be authorized and empowered upon proper application therefor, to make, produce, generate and supply light, power and heat by the means of electricity and gas, or either of them, both for its corporate purposes and for sale to the public, subject to the restrictions and limitations that may be imposed by the municipalities in which they may seek to do business.

Sec. 2571. It shall be lawful, except as prohibited in Section 7, Article IX, of the Constitution of 1895, for any electric railway, gas and electric light company, organized under the laws of this State, to lease its property and franchises to any other electric railway, gas and electric light company, upon such terms as may be agreed upon by a majority of the stockholders at a special meeting called after thirty days' advertisement.

Sec. 2572. Any corporation organized under the provisions of this Article, or heretofore chartered by the General Assembly, may be amended by the Secretary of State, by proceeding in all respects as in the organization of a

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company hereunder—that is to say, may file with the Secretary of State a written declaration showing the changes in its charter; and after such notice as the Secretary of State may prescribe, upon a proper showing made, the Secretary of State shall issue to it a certificate supplement to its charter, which shall be recorded hereunder, and shall embody the changes, additions and alterations sought, upon the payment of a fee of \$100 to cover recording fees and issuances of papers.

73. Any railroad, steamboat, street railway, or company in this State, desiring to increase its capital stock, or to have its name changed or charter amended, shall call a stockholders' meeting, giving at least thirty days' notice of the time, place and purpose of the meeting; and if a majority of the stock of the corporation be present in person or by proxy, a resolution, embodying the proposed alterations, amendments or increase of capital stock, and such resolution shall be attached to the petition filed with the Secretary of State under the provisions of Section 572 hereof.

How capital stock may be increased.

Civ. '02, § 1926.

74. Any corporation organized under the provisions of this Article, and any corporation whose charter is amended hereunder, may increase its capital stock by proceeding as in Section 2573 hereunder. The original stockholders be given the preference in the increase in proportion to the amount of original stock they may individually own.

How corporation organized under this Act may increase its capital stock.

Civ. '02, § 1927.

75. All charters granted under the provisions of this Article shall continue of force perpetually, unless limited by the terms of the declaration, or unless forfeited by failure to comply with the conditions of said charter or of this Article.

Duration of charter.

Civ. '02, § 1928.

Charters granted hereunder shall be subject to repeal by the General Assembly. And railroad, street railway and other companies organized hereunder shall be deemed to have accepted their charter rights, franchises and privileges, and they shall begin the construction of the proposed work within two years from the date of the charter, and the same within a period to be fixed by the Secretary of State in his certificate of incorporation, which said period shall in no case exceed fifteen years. Steamboat

All charters subject to repeal by General Assembly.

When work of construction to begin.

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companies hereunder shall commence operating their line within two years from the date of said charter, or their charter rights shall be deemed forfeited.

A similar proviso as to time within which they should commence operations, was held not to be a condition precedent.—*C. & C. Ry. Co. v. White*, 14 S. C., 51; *Same v. Garland*, *Id.*, 63. A corporation is not *ipso facto* dissolved by failure to commence or complete work in time limited; and the Court will not declare the charter forfeited on a mere motion in an action brought for such purpose.—*State ex rel. City Council v. S. C. & G. R. Co.* 51 S. C., 129; 28 S. E., 145.

Meeting of stockholders.

Civ. '02, § 1929.

Sec. 2576. At least one meeting of stockholders of organizations hereunder shall be held annually in this State at such time and place and upon such notice as the by-law may provide. At all stockholders' meetings, each stockholder shall be entitled to one vote for each share of stock held or owned, and shall be entitled to vote for directors, trustees or managers, as provided in Section 11 of Article IX of the Constitution, and in Section 2485.

When capital stock to be issued.

Civ. '02, § 1930.

Sec. 2577. No capital stock shall be issued by any corporation until fully paid, except when, by the terms of the petition, the capital stock is to be paid in instalments, and the deferred portion shall be secured; and no transfer of stock shall be valid, except as between the parties, until the same shall have been regularly entered upon the books of the corporation. The books of any corporation organized under this Article shall be at all times open to the inspection of any stockholder.

Directors.

Civ. '02, § 1931.

Sec. 2578. No person other than a stockholder shall be elected a director of any corporation organized hereunder.

Fictitious stock or indebtedness is prohibited.

Civ. '02, § 1932.

Sec. 2579. Neither stocks nor bonds shall be issued by any corporation, except for money paid, property delivered or labor done; and all fictitious increase of stock or indebtedness shall be void.

Rights to exact tolls.

Civ. '02, § 1933.

Sec. 2580. Any corporation organized under the provisions of this Article, engaged in the transportation of freight or passengers, by means of steamboat or otherwise upon any of the navigable waters of this State, shall have the authority to exact reasonable tolls or fees for the use of wharves or landings located upon lands that are the property of the corporation, or that are under lease or control of such corporation.

Fees to be paid into the State Treasury.

Civ. '02, § 1934.

Sec. 2581. All fees collected by the Secretary of State in accordance with the provisions of this Article shall be paid into the State Treasury.

CHAPTER XLIX.

Municipal Corporations.

1. Towns of Less than One Thousand Inhabitants.
2. Towns of Less than Five Thousand and More than One Thousand Inhabitants.
3. Towns of More than Five Thousand Inhabitants.
4. Provisions Common to Towns and Cities of More than One Thousand Inhabitants.
5. Special Provisions as to Cities of More than Ten Thousand Inhabitants.
6. Special Provisions as to Cities of More than Twenty Thousand Inhabitants.
7. General Provisions as to Towns and Cities.
8. Commission Form of Government for Cities Between Twenty and Fifty Thousand Inhabitants.
9. Cities of Fifty Thousand or More Inhabitants May Condemn Land on Water Front.

ARTICLE I.

TOWNS OF LESS THAN ONE THOUSAND INHABITANTS.

	Sec.
Towns of less than 1,000 inhabitants may be incorporated.	2592. Street tax.
Power of election of and disqualifications of voters.	2593. Power to hold property.
Power of Intendant and Wardens to hold over until successors are elected.	2594. Power to impose taxes.
Term of office, how filled.	2595. Power to regulate auction sales.
Governor may order municipal election.	2596. Power to require maintenance of sidewalks.
Power of Intendant and Council.	2597. Power to arrest and commit to guard house.
Removal of nuisances.	2598. Power to punish disorderly conduct, &c.
Power over streets.	2599. To keep record of proceedings.
	2600. Charter fee.
	2601. Term of charter.
	2602. How towns may be incorporated under this article.

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SEC.

2603. Powers enumerated in this article conferred on certain towns.

2604. Power of towns of over 500 inhabitants to equip and control fire departments.

SEC.

2605. When no election is held officer may order another election.

How towns of less than 1,000 inhabitants may be incorporated.

Civ. '02, § 1935; 1909, XXVI, 46.

Section 2582. The citizens of any proposed town of not less than one hundred (100) nor more than one thousand (1,000) inhabitants in this State, desiring to be incorporated, shall file their petitions for that purpose, setting out the corporate limits proposed for the town and the number of inhabitants therein, and signed by ten freehold electors thereof, who are freeholders in the precinct in which the proposed town is located, with the Secretary of State. The Secretary of State shall then issue to three or more persons of said town a commission authorizing them to provide for the registration of all electors within the proposed corporate limits of said town and to appoint three managers of the election; and at such election the said registered electors shall vote on the following questions: 1st, corporation; 2d, name of town; 3d, selection of intendant and four wardens. The managers shall certify the result of such election under oath to the Secretary of State, and if in favor of incorporation, the Secretary of State shall issue to the Intendant and Wardens-elect, a certificate of incorporation of said town, with the privilege, powers and immunities and subject to the limitations provided in this Article: *Provided*, That the corporate limits of towns of less than 1,000 inhabitants incorporated under the provisions of this Article, shall not extend further than one mile from the center thereof: *Provided*, That whenever it shall appear that a town of less than 1,000 inhabitants has decreased in population since its incorporation to less than 100 inhabitants that then the charter of such town shall thereby become forfeited: and secondly, that whenever a majority of the qualified voters of any town of less than 300 inhabitants shall file with the Intendant or Wardens of such town, a petition asking for an election on the question of surrendering the charter of such town, that such Intendant or Wardens shall order an election to determine the question at which all qualified voters of such town be permitted to vote, and if two-thirds

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ting shall vote in favor of the surrendering of
r, that the Intendant or Wardens shall certify
o the Secretary of State, who shall immediately
cancel the charter heretofore issued to such town.

. The officers of such town shall be an Intendant
Wardens, who shall be citizens of the United

Officers,
election, term
of office, &c.

shall have been residents of said town for four
mediately preceding said election. Said officers
ected annually, and at such place in each town
ndant and Wardens shall designate; ten days'
e being previously given. They shall hold their
term of one year, and until their successors shall
lected and qualified.

Civ. '02. §
1938.

. All male inhabitants within the limits of said
re qualified to vote under the laws and Constitu-
s State at municipal elections, and have been
ered, shall be entitled to vote and to be elected
nt and Wardens, and the election shall be held
ock in the morning until 4 o'clock in the after-
the polls shall be closed, and the managers shall
votes and proclaim the election and give notice
the persons elected.

Who can vote
at municipal
elections.

Civ. '02. §
1937.

. The Intendant and Wardens, before entering
luties of their offices, shall take the oath pre-
the Constitution of the State, and also the fol-
h, to wit: "As Intendant (or Warden) of the
....., I will equally and impartially, to the
skill and ability, exercise the trust reposed in me,
se my best endeavors to preserve the peace and
effect, according to law, the purposes of my elec-
lp me God."

Oath of In-
tendant and
Wardens.

Civ. '02. §
1938.

. In the event of any election as herein pro-
g by default from failure to give the notice
he Intendant and Wardens in office shall con-
act until due notice can be given and an election
vided by this Article; and all their actions and
as such officers are hereby confirmed until their
are duly elected.

Officers to
hold over un-
til successors
are elected.

Civ. '02. §
1939.

. In case a vacancy shall occur in the office of
or any of the Wardens by death, resignation,
om the State, or for any other cause. an elec-

Vacancies,
how filled.

Civ. '02. §
1940.

A. D. 1912.

tion shall be held to fill such vacancy, and the Intendant and Warden (or Wardens, as the case may be,) shall give ten days' previous public notice of such election: *Provided, however,* That should the vacancy occur within sixty days of the annual election, then the Town Council may, in its discretion, refuse to order an election to fill the vacancy. In case of sickness or temporary absence of the Intendant the Wardens shall form a Council, which is empowered to elect one of their number to act as Intendant during such sickness or absence.

When the Governor may order election of officers of town.

Civ. '02, § 1941.

Sec. 2588. Whenever it shall happen that a sufficient number of the Board of Intendant and Wardens to constitute a quorum shall be prevented from discharging their duties and functions by reason of death, resignation or other disability, the Governor of the State is authorized and directed to order an election for Intendant and Warden of said town, and to appoint all officers necessary for the holding and declaring of said election, who shall proceed to discharge their respective duties in the same manner and with the same effect as though they had been appointed by the municipal authorities provided for in this Article.

Intendants have power to compel attendance of witnesses.

Civ. '02, § 1942.

Sec. 2589. The Intendants duly elected and qualified shall, during their terms of office, have the same power which a Magistrate now has to compel the attendance of witnesses and require them to give evidence upon the trial before them of any person for the violation of the laws or the ordinances of the town.

To summon the Wardens to meet in Council.

The Intendant shall, as often as the occasion may require, summons the Wardens to meet him in Council, a majority of whom shall constitute a quorum for the transaction of business, and shall be known by the name of the Town Council of the said town; and they and their successors in office shall have a common seal, and shall have power to appoint from time to time such and so many proper persons to act as Marshals or Constables as they shall deem expedient or proper, which officers shall have all the powers, privileges and be subject to all the duties, penalties and regulations provided by the laws of the State for the office of Constable, and such compensation as the Town Council may prescribe; and the said Town Council shall have the power and authority under their corporate seal to ordain

Powers of Town Council.

A. D. 1912.

ish all such rules and by-laws and ordinances for the streets, ways, public wells and springs or for the water, market and police of said town, and for promoting health, peace, order and good government of the same, as they may deem expedient and proper, subject to the laws of this State; and all such by-laws and ordinances shall at all times be subject to revision and amendment by the General Assembly of the State: *Provided*, that no monopoly be granted to such incorporated towns for the sale of meats or breadstuffs.

Said Intendant or Council may impose fines for the violation of such by-laws and ordinances and appropriate to the use of the corporation, but no fines exceeding one hundred dollars; and said Intendants or Council shall have power to issue execution to the Sheriff of the County for the collection of all fines imposed.

May impose
fines, &c.

1. Said Town Council shall have power to abate nuisances within the limits of said town, and to order and arrange the inhabitants liable to police duty, and to require them to perform such duty as occasion may require, and to enforce performance thereof under the same penalties as are now or may hereafter be established by law. Said Town Council shall have power to compound with persons liable to perform such duty upon such terms as may be determined by ordinance establish.

Power to
abate nuis-
ances, &c.Civ. '02, §
1943.

2. It shall be the duty of the Town Council to keep the streets and ways which may be necessary for public use within the limits of said town open and in good repair, and for that purpose they are hereby invested with the same rights and privileges granted by law to the County Commissioners within the limits of said town, and if by neglect of duty they shall be liable to the penalties imposed by law upon Commissioners of Roads for neglect; and said Intendant and Wardens shall be held responsible for the performance of road and police duty within the limits of said corporation.

Jurisdiction
over streets.Civ. '02, §
1944.

3. The said Town Council shall have power to assess and collect a tax upon the persons liable to work on said streets, and to release such persons as may desire it upon payment of such sums of money as they may by ordi-

Street tax.

Civ. '02, §
1945.

A. D. 1912.

nance fix as a fair equivalent therefor, to be applied by them to the use of said corporation.

May own
property.

Civ. '02, §
1946.

Sec. 2593. The said Town Council may own and hold real and personal property not exceeding twenty thousand dollars in value.

May impose
tax.

Civ. '02, §
1947.

Sec. 2594. The said Town Council shall also have power by ordinance to impose an annual tax on all real and personal property within the corporate limits of said town, and such tax must not exceed fifty cents on the one hundred dollars; and it shall also have power by ordinance to levy an annual tax upon any business or occupation conducted within the corporate limits, but such taxation must be uniform with respect to all of the classes taxed. The taxes so levied shall constitute a lien upon the property upon which it is levied paramount to all other liens, except the lien for State and County taxes. For the purpose of collecting the same, said Town Council shall be, and is hereby, empowered to issue executions against all property on which the taxes have not been paid, and place the execution in the hands of some officer for collection, who shall have all the rights as now conferred upon Sheriffs for the enforcement of tax executions.

Auction and
auctioneers.

Civ. '02, §
1948.

Sec. 2595. The said Town Council shall have power to regulate sales at auction within the limits of said town, and to grant licenses to auctioneers: *Provided*, That nothing herein shall extend to sales by or for the Sheriff, Clerk of Court, Judge of Probate, Coroners, executors and administrators, assignees, or by any other person under the order of any Court, Magistrate or other inferior Court, or by the owner or owners of the property sold.

Sidewalks.

Civ. '02, §
1949.

Sec. 2596. The Town Council of said town shall have the power and authority by ordinance to require all persons owning a lot or lots in said town to keep in repair the sidewalks adjacent to their lots, respectively, and for default in this matter shall have power and authority to impose a fine not exceeding fifteen dollars.

Town Council
has power to
arrest, and on
conviction to
commit to the
guard house.

Civ. '02, §
1950.

Sec. 2597. The said Intendants or Town Council shall have power to arrest and, upon conviction, to commit to the town guard house, for a space of time not exceeding thirty days, and to fine not exceeding one hundred dollars, any person or persons who may be guilty of disorderly con-

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d town to the annoyance of the citizens thereof; l be the duty of the Marshal of the town to make , and to call to his assistance the *posse comitatus*, y, and upon failure to perform the said duty fined in a sum not exceeding one hundred dol- ch and every offense.

3. The said Intendant and Wardens, in per- of them, may authorize and require any Marshal le especially appointed for that purpose to arrest, onviction before the Intendants or Town Council, to the guard house, which said Intendants or ncil is authorized to establish, or to the County he County chain gang, for a term not exceeding s, any person or persons who, within the cor- its of said town, may be engaged in a breach of any riotous or disorderly conduct, open obscenity, unkenness, or any conduct grossly indecent or to the citizens of said town, or any of them: That if the offender be committed to jail it shall t the expense of the said town: *Provided*, This all not be construed to prevent trial by jury.

Powers of Marshals or Constables.

Civ. '02, § 1951.

ction and procedure in courts of such municipalities, see Secs.

9. Said Town Council shall keep a record of all acts and ordinances.

Records.

Civ. '02, § 1952.

ase or decrease of territory see Sections — and —.

0. Before the issue of the commission herein for, by the Secretary of State, he shall require ators to produce a receipt of the Treasurer of the a fee of ten dollars, which receipt shall be filed pplications in his office.

Charter fee.

Civ. '02, § 1953.

1. Such charter shall continue from its date for of thirty years.

Term of charter.

Civ. '02, § 1954.

2. Any town of less than one thousand inhabit- ady chartered, which is desirous of surrendering r and accepting incorporation under this Article, charter is about to expire, may be incorporated s Article. The Town Council of such town may e question to a vote of the qualified electors at an rdered on twenty days' notice. If the election favor of surrendering the old charter and accept-

Towns may surrender charter and be incorporated under this Act.

Civ. '02, § 1955.

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ing a charter under this Article, the Town Council shall certify such results, accompanied by the sworn return of the managers of said election, to the Secretary of State who shall thereupon issue to said Council a certificate of incorporation of said town with the privileges, powers and immunities and subject to the limitations prescribed in this Article.

Every such certificate of incorporation shall continue from its date for a period of thirty years.

Powers enumerated conferred on certain towns heretofore created.

Civ. '02. § 1956.

Sec. 2603. All municipal corporations of this State having a population of not less than two hundred, and not more than one thousand inhabitants, are hereby endowed with the powers enumerated in this Article. The powers hereby conferred are in addition to those already enjoyed by said corporations under their respective charters.

Hill v. City Council of Abbeville, 59 S. C., 426; 38 S. E., 11.

Powers of certain towns to equip and control fire departments.

Civ. '02. § 1957; 1906, XXV, 10.

Sec. 2604. Hereafter, the Town Council of every town in this State between one hundred and one thousand inhabitants shall have the power and authority to equip and control a fire department for the protection of said town in such way as they may deem necessary, and by ordinance to establish fire limits and provide for building permits in said town, and to prescribe and designate the kind and character of material to be used in erecting and repairing buildings or structures within and upon that portion of said town included within such fire limits. All buildings or structures erected within such fire limits contrary to the ordinance of said town, and without such permits, may be abated and removed by said Town Council as a public nuisance.

When no election is held, officer may order another election.

1905, XXIV, 943.

Sec. 2605. Whenever any election in any such town shall fail of its purpose because of a tie vote or otherwise, or whenever any such election shall fail to be held for any reason, the officers of such town charged with holding of such election shall whenever such failure appears, proceed forthwith to appoint a day and advertise for and hold another election, and so continue to do until the purpose of such election has been attained.

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ARTICLE II.

LESS THAN FIVE THOUSAND AND MORE THAN ONE THOUSAND INHABITANTS.

gs to obtain charter.	SEC.
be governed, Mayor	2610. Clerk and Treasurer, election,
lermen.	&c.
how conducted, &c.	2611. How towns may obtain char-
tee.	ters under this article.
	2612. Powers conferred on certain
	municipalities.

Citizens of any proposed town of this State
han one thousand nor more than five thousand ^{Petition for incorporation.}
desiring to be incorporated shall present to ^{1902, XXIII.}
y of State a petition for that purpose, setting ^{1047.}
posed corporate limits and number of inhabit-
signed by at least fifty freehold voters of such
majority of the resident freeholders within the
d corporate limits. The Secretary of State shall
commission to not more than ten Commission-
of said proposed town, empowering them to
proper registration of the electors of the town
proposed corporate limits, and to advertise an
twenty (20) days and to appoint managers
the same, which election shall be conducted as
municipal elections, and at such election the
ll vote on the following questions: 1. Corpora-
me. 3. Mayor and not less than six nor more
Aldermen. The Managers of Elections shall
orn return of the result of said election on said
o said Commissioners, who shall thereupon
eturn to the Secretary of State, attaching
ger's return. Thereupon the Secretary of State
to the Mayor and Aldermen-elect a certificate
ation of said town under this Section. Said town
all the powers, privileges and immunities, and be
all the liabilities and limitations, prescribed in
.
. Said town shall be governed by a Mayor and ^{Town; how governed.}
en, or, in case of municipalities being divided ^{(Civ. '02, §}
s, one Warden from each Ward, who is a qualified ^{1950.}
reof, who shall be citizens of the United States,

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Town Council.

Election for Mayor and Aldermen.

Civ. '02, § 1960.

How such elections shall be conducted.

and who shall be electors who actually reside in the corporate limits of said town and have so resided at least six months immediately preceding the day of election. The said Mayor and Aldermen shall be, and be known as, the Town Council of said town, and shall be elected every two years, on such days and at such place in said town as shall be designated by the Town Council of said town, ten days public notice thereof being previously given. They shall hold their offices for the term of two years and until successors shall have been elected and qualified.

Sec. 2608. In all cases of towns incorporated under this Article, three Managers of Election shall be appointed by the Town Council of such town at least ten days before the day fixed for the holding of an election for Mayor and Aldermen, or either of them, and the names of such Managers shall be published at the same time and in the same place as the notice of such election hereinafter provided for.

The Managers shall be sworn by the Mayor, or, in his absence, or in case of disability, by one of the Aldermen of said town, or in case there is no Mayor or Aldermen, then by any officer authorized to administer oaths, fairly and impartially to conduct such election according to law, and make a true return of the result thereof. Immediately upon the closing of the polls, the Managers shall proceed to count publicly the votes cast, and shall continue such count until the same is completed, and make a statement of the whole number of votes cast in such election, together with the number cast for each person voted for, for Mayor and Aldermen, upon the completion of which they shall transmit such statement to the Town Council of such town, and in case there be no Town Council they shall proclaim the election and transmit a copy of such statement to the Clerk of the Court of the County wherein such town is situated, and notify the parties elected of their election; and the said Mayor or Clerk of Court shall, immediately upon the receipt of such statement or report of the Managers, open and publish the same by announcing the whole number of votes cast for each person voted for as Mayor or Aldermen. The person securing the highest number of votes for Mayor shall be declared duly elected to that office, and the person receiving the highest number of votes for Aldermen, in number

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e number of Aldermen to be chosen, shall be
ly elected to that office. Such Mayor and Alder-
entering upon the duties of their respective
take the oath prescribed by the Constitution
e following oath, to wit: "As Mayor (or Alder-
e town of, I will equally, fairly and
to the best of my ability and skill, exercise the
d in me, and will use my best endeavors to pre-
eace and carry into effect according to law the
r which I have been elected: So help me God."

Oath of office.

Before any commission authorized in this
delivered by the Secretary of State, he shall
production of a receipt from the State Treasurer
dollars as charter fee, which receipt shall be
he papers in office.

Charter fee.

Civ. '02, §
1961.

Said Town Council shall have the power to
and Treasurer, who shall execute such bond for
l performance of his duties as fixed by said
cil. Said Town Council shall fix the compen-
ch Clerk and Treasurer before each election.

Clerk and
Treasurer.

Civ. '02, §
1962.

Any town of more than one thousand and
e thousand inhabitants already chartered which
of surrendering its charter and accepting incor-
der this Article, or whose charter is about to

How towns
may procure
charter under
this Act.

Civ. '02, §
1963.

be incorporated under this Article. The Town
such town may submit the question to a vote
ified electors at an election ordered on twenty

If the election results in favor of surrender-
charter and accepting a charter under this
Town Council shall certify such results, accom-
he sworn return of the managers of said elec-

Secretary of State, who shall thereupon issue
ncil a certificate of incorporation of said town,
ivileges, powers and immunities and subject to
ons prescribed in this Article: *Provided*, That
rpose of holding the first election of officers
ew charter given under this Section, the Town
der the old charter, shall have full power and
appoint the Managers of Election, and to cer-
ult to the officers so elected and to supervise
in the same manner as the election for Intend-

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ant and Wardens under the charter^{ly} residence^{ed} was conducted.

Term of incorporation.

Every certificate of incorporation shall continue of force from its date for a period of fifty years.

Hill v. City Council of Abbeville, 59 S. C., 426 ; 38 S. E., 11.

Powers conferred on certain municipalities.

Civ. '02, § 1964.

Sec. 2612. All municipal corporations of this State having a population of not less than one thousand and not more than ten thousand inhabitants are hereby endowed with the powers conferred on municipal corporations in this Article, and in Article IV. The powers hereby conferred are in addition to those already enjoyed by said corporations under their respective charters.

Hill v. City Council of Abbeville, 59 S. C., 426 ; 38 S. E., 11.

ARTICLE III.

TOWNS OF MORE THAN FIVE THOUSAND INHABITANTS.

SEC.

2613. Proceedings to obtain charter.

2614. Conduct of elections.

2615. Streets, how opened.

2616. Liable for damages from torts of officers.

2617. Charter fees.

2618. City officers.

2619. Trial by jury.

2620. Charters; how obtained by cities under this Article.

2621. Liability as to prior indebtedness.

2622. Term of charter.

2623. Road duty and commutation tax.

SEC.

2624. Provisions of Act not affect rights and liabilities under charters heretofore granted

2625. Where city surrenders charter to be incorporated under general law, officers hold over.

2626. Annual tax authorized for city of Anderson.

2627. Powers of cities of over 50,000 inhabitants as to levying taxes.

2628. Cities of 5,000 inhabitants may establish slaughter pens.

Incorporation of cities of more than 5,000 inhabitants.

Civ. '02, § 1965.

Petition.

Commissioners to be appointed.

Section 2613. Whenever one hundred citizens of any proposed city of this State, containing more than 5,000 inhabitants, shall desire that the said city shall become incorporated, they may present to the Secretary of State a petition for that purpose, setting forth the name of the proposed city, the proposed corporate limits and the number of inhabitants thereof, signed by at least one hundred freehold voters of said proposed city, the Secretary of State shall then issue a commission to not more than ten, or less than five, Commissioners, citizens of said proposed

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er them to proceed to the proper registration
rs within the proposed corporate limits of the
y, and to advertise an election for twenty (20)
days in the newspapers published within the
orporate limits of the proposed city, and if there
papers published therein, then to advertise by
notice of such election, for twenty consecutive
less than three public places within such pro-
rate limits, and to appoint Managers to conduct
which election shall be conducted as all other
lections, and at which the electors shall vote
wing questions: 1. Corporation. 2. Name. 3.
Aldermen, voting for one Alderman from each
f said proposed city be not divided into Wards,
Aldermen from the proposed city at large. The
such election shall make their sworn returns of
f said election to the said Commissioners, who
the same to the Secretary of State, which return
the number of those voting in said election,
h the number of those voting on each of said
If a majority of those voting in such election
a favor of such proposed territory being incor-
n the Secretary of State shall issue a certifi-
poration of said proposed city, under this Arti-
certificate shall state the name of the proposed
ose receiving the highest number of votes for
Aldermen, respectively, in the election herein-
ded for shall be the Mayor and Aldermen of said
eir successors shall have been elected as herein-
led for.

shall be governed by a Mayor and Aldermen,
of municipalities being divided into Wards, one
from each Ward, who shall be and be known
Council of said city. Said Mayor and Alder-
be qualified electors of this State and of the
which said city is situated, and they shall have
the corporate limits of said city at least six
mediately preceding the day of election. If a city
into Wards, the Alderman from each Ward
qualified elector thereof, and shall be elected by
d electors thereof. The said Mayor and Alder-

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Mayor and
Aldermen.

men shall be elected every two years, on such days and at such places in said city as shall be designated by the City Council of said city, ten days' public notice thereof being previously given. They shall hold their offices for a term of two years and until their successors shall have been elected and qualified.

All cities and towns in this State that have, or may hereafter receive, a certificate of incorporation under the general laws of the State from the Secretary of State of the State of South Carolina, are hereby declared to be bodies politic and corporate, and entitled to exercise all the powers and privileges and subject to all the limitations and liabilities provided for municipal corporations in this State within the respective classes to which they may severally belong, as provided by law; and every such certificate of incorporation, and the incorporation thereof, is hereby confirmed, validated and ratified, any irregularity, error or omission in the proceedings on which the certificate is issued to the contrary notwithstanding; and the incorporation or corporate capacity of any such city or town shall not be attacked in any Court in this State except on permission of the General Assembly of this State granted by special Act for that purpose.

Managers of
election.

Civ. '02. §
1986.

Sec. 2614. In all cases of cities incorporated under this Article, the Managers of Elections shall be appointed by the City Council of such city for each polling precinct at least ten days before the day fixed for the holding of any election for Mayor and Alderman, or either of them. The names of such Managers shall be published at the same time and in the same place as the notice of elections hereinafter provided for.

Conduct of
elections.

In all elections provided for in this Article the Managers shall be sworn by the Mayor, or, in his absence or in case of disability, by one of the Aldermen of said city, or by any officer authorized to administer oaths, fairly and impartially to conduct such elections according to law, and make a true return of the result thereof. Immediately upon the closing of the polls, the Managers shall proceed to count publicly the votes cast, and shall continue such count until the same is completed, and make a statement of the whole number of votes cast in such election, together with the number of

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for each person voted for Mayor and Alder-
the completion of which they shall transmit such
o the City Council of such city, who shall notify
elected of their election; and the said City Council
diately, upon receipt of such statement or report
agers, open and publish the same by announcing
number of votes cast for each person voted for
or Alderman. The person securing the highest
votes for Mayor shall be declared duly elected
e, and the person receiving the highest number
r Alderman, in number equal to the number of
o be chosen, shall be declared duly elected to that
a Mayor and Aldermen, before entering upon the
heir respective offices, shall take the oath pre-
the Constitution, and also the following oath, to
ayor (or Alderman) of the City of, I
r, fairly and impartially, to the best of my ability
xercise the trust reposed in me, and will use my
vors to preserve the peace and carry into effect
o law the purposes for which I have been elected:
God.

. The said City Council shall have, and is <sup>Streets; how
opened.</sup>
n, the further authority to lay out and open new
aid city, and to close up, widen, or to otherwise <sup>Civ. '02, §
1967.</sup>
now in use, or those which may hereafter be
whenever, in their judgment, the same may be
or the improvement or convenience of said city:
That they shall first pay damages, should any
, to the land owner or owners through whose
ich street or streets may run, said damages to
id determined by five freeholders of said city,
m shall be chosen by the said City Council, two
land owner or owners, and the fifth by the per-
osen, and who, before assessing said damages,
orn to do impartial justice between the said city
nd owner or owners, taking into consideration
s that may accrue to him or them thereby: *And*
urther, That should such land owner or owners
neglect, after ten days' notice from said City
nominate, in writing, two freeholders for the
ve indicated, then the City Council may appoint

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the same, who shall proceed as if appointed by said land owner or owners. Either of the parties shall have the right to appeal from the award of the said Commissioners to the Court of Common Pleas, and on such appeal to have the questions at issue tried *de novo* before a jury in said Court. *Provided, further,* That said appeal shall not operate to delay the opening, widening or altering of any said street, but the City Council may take possession of said land, and proceed upon the said work, on depositing with the Clerk of Court of Common Pleas the amount fixed by said Commissioners.

Liability in damages to abutting owner for altering grade of sidewalk—*Bramlett v. City of Laurens*, 58 S. C., 60; 36 S. E., 445; *Wilkins v. Gaffney City*, 54 S. C., 199; 32 S. E., 299; *Paris Mountain Water Company v. Greenville*, 53 S. C., 82; 30 S. E., 699. The method appointed in the Statute for ascertaining damages is exclusive.—*Garraux v. Greenville*, 53 S. C., 57; 31 S. E., 597.

Liability for
damages for
wrongful acts
of officers.

Civ. '02, §
1968.

Sec. 2616. The said city shall be liable for all damage done to the property of any citizen thereof, or property holder therein, by any of the officers, agents or servants under and by virtue of any authority or orders of said City Council.

In the absence of such Statute a municipal corporation is not liable for a tort sustained by the act of its officers.—*Parks v. City Council of Greenville*, 44 S. C., 168; 21 S. E., 540; *Young v. Charleston*, 20 S. C., 118; *Gibbs v. Beaufort*, 20 S. C., 218.

Charter fees.

Civ. '02, §
1969.

Sec. 2617. Before any commission authorized in this Article is delivered by the Secretary of State, he shall require the production of a receipt from the State Treasurer for twenty dollars as charter fee, which receipt shall be filed with the papers in office.

City officers.

Civ. '02, §
1970.

Sec. 2618. The said City Council shall have the power to elect a Clerk, Treasurer, Auditor, City Attorney, who shall not be an officer of the corporation, Building Inspector, Sewerage and Plumbing Inspector, and any and all other officers that the said City Council may from time to time find it necessary or proper to have in the administration of the affairs of the said city; and the said City Council shall fix the powers, duties and compensation of such officers as may seem to them to be best. Any of the said officers who may be so required by the City Council shall give bond to such sum as may be fixed by said City Council for the faithful performance of their duties.

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. Any person entitled to a trial by jury may jury, and such jury, when demanded, shall be n the qualified electors of the city in the same is prescribed for drawing of juries in Magis-rt.

Trial by jury.

Civ. '02, § 1971.

. Any city of more than 5,000 inhabitants, rtered, whether by special Act or under a general is desirous of surrendering its charter and accept- oration under this Article, or whose charter is pire, may become incorporated under this Article wing manner, to wit: Upon the application to it dred freeholders of said city, the City Council special meeting called for that purpose, of which a days' public notice shall be given, consider the surrendering its charter and becoming incor- der this Article; and in case a majority of the il shall decide upon such surrender and incor- ney shall order an election upon such questions ner hereinbefore provided, and if a majority of d electors vote in favor of such surrender and on, they shall certify the result to the Secretary who shall thereupon issue to said Council the of the incorporation of said city with the privi- rs and immunities, and subject to the limitations cribed: *Provided*, That in a city of over twenty- d inhabitants such election shall not be ordered a the written application of one thousand free- d after a decision in favor thereof by three- said Council, and two-thirds of the qualified vote in favor of such surrender and incorpora- any certificate of incorporation under this Article ed.

Charters un- der this Act; how obtained.

Civ. '02, § 1972.

All cities that have heretofore been, or shall e incorporated under the provisions of Section e of the expiration or the surrender of a previous ll be and become, and are hereby made, liable l all indebtedness, whether bonded or otherwise, tracts of the said previously incorporated city the time of the surrender or expiration of such rter, and shall make provision by issuing bonds

Liability as to prior in- debtedness.

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or otherwise carrying out all such contracts, and for the payment of such indebtedness and interest thereon.

Sec. 2622. All charters heretofore or hereafter acquired under the provisions of this Act shall be perpetual.

Road duty
on streets;
commutation
tax.

Civ. '02, §
1974.

Sec. 2623. The said City Council are hereby authorized and empowered to require all male inhabitants of said city between the ages of eighteen and fifty years (active firemen and persons exempt by law from road duty excepted) to work upon the roads, streets and ways of said city not exceeding four days in each and every year, or in lieu of such work the City Council may compound with persons so liable to work in any amount not exceeding three dollars per annum, to be applied to the use of said city; and any person failing or refusing to perform such work or to compound as above provided, upon conviction thereof before the Mayor or Acting Mayor (who may bring any such person before him by warrant) be fined not exceeding ten dollars or be imprisoned in the County jail for a period not exceeding thirty days.

Civ. '02, §
1975.

Sec. 2624. The provisions of this Article shall not affect the rights and liberties acquired by any city under a charter heretofore granted and obtained.

Where city
surrenders
charter to be
incorporated
under general
laws, the offi-
cers thereof
shall continue
in office.

1907 XXV,
618.

Sec. 2625. When any city, already incorporated, shall surrender its charter for the purpose of becoming incorporated under general laws, its Mayor and Aldermen shall continue in office until the term for which they were elected shall expire; and in the event of the death, removal or resignation of the Mayor, or any Alderman, the remaining members of the City Council shall elect a successor, who shall serve during the unexpired portion of said term. At least twenty days before the expiration of their said term the said Council so holding over shall order the first election for officers under the new charter, and shall have full power and authority to supervise and direct the election, appoint the managers, canvass the votes, declare the result of the election, and within twenty days thereafter install those who have been elected.

Annual tax
authorized for
City of An-
derson.

1908, XXV,
1058.

Sec. 2626. All municipal corporations containing more than five thousand inhabitants shall have the power to impose by ordinance an annual tax sufficient to meet all expenses of the municipality, including current expenses.

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ax provided by law, fixed charges in the way
 and sinking fund on bonds, and any other matter
 such municipalities may be now or hereafter
ided, That ten days' public notice thereof shall
 tting forth the amount levied for the several
 which levy may be made: *Provided*, That the
 f this Section shall apply only to the city of
 nd nothing herein contained shall be construed
 or changing the law now in force in regard to
 palities.

All municipal corporations containing more
 ousand inhabitants shall have the power to
 rdinance an annual tax sufficient to meet all
 the municipality, fixed charges in the way of
 sinking fund on bonds not exceeding 15 mills:
 hat ten days' public notice thereof shall be
 g forth the amount levied for the several pur-
 ich the levy may be made: *Provided*, That the
 f this Section shall apply only to the city of
 nothing herein contained shall be construed as
 changing the law now in force in regard to
 palities.

Power of
 cities of
 more than
 5,000 inhabi-
 tants as to
 levying
 taxes.

1910, XXVI,
 588.

Municipal corporations in this State contain-
 usand inhabitants or more, may establish, or
 quire the establishment of, slaughter pens with-
 ond their corporate limits, and may prescribe
 for the establishment, maintenance and conduct
 , and shall have the right to enforce all such
 as if the same were established and conducted
 orporate limits. The police jurisdiction of any
 that may establish, or permit the establish-
 laughter pen, or slaughter pens, shall extend to
 e same, and all land and property necessarily
 ection therewith, not exceeding five acres, for
 of protecting and preserving the health of the
 e inspection and slaughtering of animals for
 the protection and use of any such slaughter
 nds and of the property therein or thereon, and
 sportation of meats from the pens to such
 preserving peace and order at said pens and on
 s.

Cities of
 5,000 inhabi-
 tants or
 more may
 establish
 slaughter
 pens.

1910, XXVI,
 588.

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ARTICLE IV.

PROVISIONS COMMON TO TOWNS AND CITIES CONTAINING ONE THOUSAND INHABITANTS.

SEC.

2629. Municipal elections, when and where held.

2630. Qualified voters at.

2631. Vacancies in offices, how filled.

2632. Mayor pro tem.; judicial powers, &c.

2633. Council meetings.

2634. Corporate powers.

2635. Police powers.

2636. Licenses.

SEC.

2637. Confederate soldiers and sailors exempt from paying licences.

2638. Municipal tax may be levied.

2639. Streets, ways and bridges.

2640. Fire department.

2641. Policemen.

2642. Guard house, arrests, &c.

2643. Nuisances may be abated, &c. Power to borrow money, &c.

2644. Reports by council.

2645. Negligence of officers.

Municipal elections.

Civ. '02, § 1976.

Section 2629. All elections shall be held in some convenient public places in said city or town; the polls shall be open from eight o'clock in the forenoon to four o'clock in the afternoon, and shall be conducted by Managers who shall be appointed as hereinafter provided for.

Voters.

Civ. '02, § 1977.

Sec. 2630. All male inhabitants residing within the corporate limits of the said city or town, and qualified to vote according to the provisions of the Constitution of this State who have been duly registered, shall be entitled to vote at the election provided for in this Article.

Vacancies in offices.

Civ. '02, § 1978.

Sec. 2631. In case a vacancy occurs in the office of Mayor or Alderman, by death, resignation or otherwise, all elections to fill such vacancies shall be held in the same manner and after the same notice as hereinbefore provided in Articles 2 and 3, respectively. Should the vacancy occur within sixty days of the regular election it shall be left to the discretion of the Council whether or not they shall order an election to fill the vacancy. In case of a contest or protest as to any municipal or special election held under Articles 2 and 3 of this Chapter, shall be determined in the manner now provided by the law of this State.

Vacancies by resignation; when created; when resignation is complete. State ex rel. Jernigan v. Stickley, 80 S. C., 70; 61 S. E., 211.

Mayor pro tem.

Civ. '02, § 1979.

Sec. 2632. The City or Town Council of such city or town shall have power to elect one of its Aldermen Mayor pro tempore, who shall be vested with all powers, duties and responsibilities attached to the office of Mayor during the

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absence or disability of the Mayor, or when the Mayor shall be and become vacated by reason of resignation, removal or permanent disability of the Mayor until a new Mayor shall have been elected and the said Mayor shall have the power and authority to summarily try all offenders against the ordinances of the city in a summary manner without a jury, unless the accused, unless such person enter into sufficient recognizance, to be approved by said Mayor in the case provided, the Mayor *pro tempore*, to hold trial within four days after such arrest, or at such time as may be agreed upon, in which event the trial is deferred until that time.

The Mayor shall have authority to summon Council meetings to meet in council for the transaction of business pertaining to the corporation whenever, in his discretion, it may be necessary. Civ. '02, § 1980.

The corporate name of every city or town established under this Article shall be "the city (or town) of _____," and by such corporate name said city or town may sue and be sued, plead and be impleaded in any action at law or equity in this State, and may purchase, hold, and possess, for the use of said city or town, any real estate, or for the term of years any estate, either fee simple, fee tail, or life, or mixed, and sell, alien and convey the same. The said city or town shall have and keep a seal, which shall be affixed to all ordinances passed by the Mayor and the Aldermen thereof. Corporate powers. Civ. '02, § 1981.

And the said City or Town Council shall have authority to make, ordain and establish all such rules, regulations and ordinances respecting its roads, streets, markets, police, health and order of said city or town as may appear to them necessary and proper for the safety, health and convenience of the said city or town, giving the health, peace, order and good government of the same: *Provided*, That no monopoly shall be granted in such incorporated cities or towns for the sale of liquors, groceries or meats. And the City or Town Council may by ordinance and impose fines and penalties for the violation of the said rules, by-laws, regulations and ordinances, but not to exceed the sum of one hundred dollars, or Police powers. Civ. '02, § 1982.

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imprisonment for not more than thirty days, and shall appropriate all revenues arising therefrom to the use of the said corporation: *Provided*, Such ordinances, rules and by-laws or regulations be not contrary to the laws of the State. Every person sentenced to imprisonment, either directly or in consequence of a failure to pay a fine imposed, shall be subject to work upon the public roads of said city or town, or of the County in which such city or town is situate, during the term of such imprisonment.

Licenses.
Civ. '02, §
1988.

Sec. 2636. Said City or Town Council may, and they are hereby authorized annually to require by ordinance the payment of such reasonable sums of money as a license by any person or persons, corporation or corporations engaged or intending to engage in any calling, business, occupation or profession, in whole or in part, within the limits of said cities or towns, except those engaged in the calling or profession of teachers or ministers of the Gospel: *Provided*, That said license shall be graduated according to the gross income of the persons, firms or corporations required to pay such license, or upon the amount of capital invested in said business. They shall have power to collect license or taxes from all persons representing publicly within the limits of said city or town, for gain or reward any plays or shows of whatever nature or kind soever: and said City or Town Council are hereby authorized and empowered to give full force and effect to this Section and to punish delinquents thereunder.

Hill v. City Council of Abbeville, 59 S. C., 426; 33 S. E., 11; F. C. & P. Ry. Co. v. Columbia, 54 S. C., 266; 32 S. E., 408.

Cannot license nuisances on streets.—Spencer v. Mahon, 76 S. C., 22. 55 S. E., 321.

Confederate
soldiers and
sailors ex-
empted from
paying licen-
ses.

1904, XXIV.
441; 1906,
XXV, 118.

Sec. 2637. All soldiers and sailors of the Confederate States, who enlisted from this State and who were honorably discharged from such service, shall hereafter be exempt from the charge of any license for the carrying on of any business or profession within this State, or any city, town or village therein: *Provided*, That such soldier and sailor shall file with the Clerk of the Court of the County in which he resides, the proper evidence of his service in the Confederate War: *Provided, further*, That no partnership shall exist in any such business or profession, with any person not a *bona fide* soldier or sailor of the said Confederate

A. D. 1912.

provided, further, That nothing herein contained construed as to allow any soldier or sailor to buy and unpack lint cotton without a license as is led by law: *Provided, however,* That in cities of thousand inhabitants, Confederate Veterans shall be Clerk of Court an endorsement by their local such exemptions shall be limited to one place ss of business.

as declared unconstitutional in case of City of Laurens v. S. C., 62; 55 S. E., 136.

Said Council shall have power to impose, by published at least twenty days, an annual tax, ^{Municipal tax levy.} ^{1908, XXV,} ^{1046.} ing one and one-fourth per cent. in cities contain- ve thousand inhabitants, and not over one per wns containing between one thousand and five nhabitants, of the assessed value thereof on all lying within the corporate limits of said city and all personal property within the same, includ- and stocks of banks and insurance companies corporations, the real estate of churches and ciations from which such churches and school s draw a revenue, or which are intended to out for such purpose, except such as is exempt tion under the Constitution and laws of this ch tax shall be levied by the town authorities on ty within the corporate limits as assessed for or County and State purposes. The said Council have power to provide for the payment of a t exceeding 15 per cent. of the taxes so levied for nt of the said taxes when due, payable when the become delinquent; and the taxes so levied, and id penalty, shall constitute a lien upon the prop- which the said tax is levied until paid, para- all other liens, except the lien for County and s; and for the purpose of collecting the same, the or Town Council shall have the power to enforce nt of all such taxes and penalties, levied and pro- under the authority of this Article against the f defaulters, to the same extent, and substantially e manner, as is provided by law for the collection and County taxes and penalties; except that execu- ^{Tax execu- tions.}

Penalty.

A. D. 1912.

tions to enforce the payment of the said taxes and penalties due the said city or town shall be issued under the seal of the corporation by the Clerk thereof, and directed to the Chief of Police, or any other officer designated by the City or Town Council for that purpose; and except, further, that all sales under and by virtue of such executions shall take place in front of the City or Town Hall, or other public place designated by ordinance in such city or town. The said Clerk and the said Chief of Police, or other officer so designated as aforesaid, shall be allowed the same fees and costs in the enforcement of such executions, and for sales thereunder, as are allowed, respectively, to the County Treasurer and Sheriff, which fees and costs shall be enforceable and collectible in the same manner as fees and costs under County and State tax executions and on sales thereunder.

May compel payment in certain medium.—*Trenholm v. Charleston*, 3 S. C. 347; power to tax rests on legislative grants.—*State v. Mayesville*, 12 S. C. 76. Lien for taxes.—*Ketchin v. McCarley*, 26 S. C., 1; 11 S. E., 1049. *Vesta Mills v. Charleston*, 60 S. C., 1; 38 S. E., 226.

City Council to keep in repair streets, ways and bridges.

1908, XXV, 1023.

May require road duty.

Sec. 2639. The said City or Town Council shall have power, and it shall be their duty, to keep in good repair all the streets, ways and bridges within the limits of said city: and for such purpose they are invested with all the powers, rights and privileges within the limits of said city that are now given, or that may hereafter be given to the County Board of Commissioners of the several Counties of this State as to the public roads. In addition thereto, the said City or Town Council are hereby authorized and empowered to require all male inhabitants of said city, between the ages of eighteen and fifty years (active firemen and persons exempt by law from road duty excepted), to work upon the roads, streets and ways of said city not exceeding four days in each and every year, or, in lieu of such work, the said City or Town Council may compound with persons so liable to work in any amount not exceeding three dollars (\$3.00) per annum, to be applied to the use of said city or town; and any person failing or refusing to perform such work, or to compound as above provided, upon conviction thereof before the Mayor or acting Mayor, Intendant or acting Intendant (who may bring such persons before him by warrant), be fined not exceeding ten dollars (\$10.00).

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soned in the city, town or County jail for a exceeding thirty (30) days. And in the towns 5,000 inhabitants, incorporated under the pro-ticle II of this Chapter, the said Town Council se have power, and such power is hereby legated to it, in its discretion, to authorize of poles, posts, and any other obstruction which, slative sanction, either mediately or imme-, would constitute nuisances in, upon or under s, streets and roads of said town.

The said Council shall have power and author- and control a fire department for the protec- city in such way as they may deem necessary an- ce to establish fire limits in said city, and to l designate the kind and character of material erecting and repairing buildings or structures upon that portion of said city included within its, all buildings or structures erected within it contrary to the ordinance of said city may be removed by said City Council as a public

Fire depart-
ment.Civ. '02, §
1986.

The said Council shall have authority to lect as many policemen, regular or special, as ssary for the proper government of said city, salaries and prescribe their duties. They shall and vested with all the powers now conferred i Constables, in addition to the special duties n them by Council: *Provided*, Such powers shall ised beyond the limits of said city or town: hat in cities where Boards of Police Commis- been established by law, the election or appoint- police officers and men of such cities shall be the provisions of law pertaining to said Board mmissioners for such city.

Policemen.

Civ. '02, §
1987.

The said Council shall have authority to guard house or houses and prescribe suitable gulations for the government of the same. They nance, or the Mayor and Aldermen, or any one of son, may authorize any policeman of said city l commit to said guard house, for a period not enty-four hours before trial, unless such arrest

Guard house.

Civ. '02, §
1988.

A. D. 1912.

be made on Saturday, in which case it shall not exceed forty-eight hours before trial, any person or persons who, in view of any officer within the said corporate limits, shall be engaged in a breach of peace, riotous or disorderly conduct, open obscenity, public drunkenness, or any conduct grossly indecent; and it shall be the duty of the policemen of said city to arrest and commit all such offenders, when required by any ordinance or any member of said Council so to do, and they shall have power to call to their assistance the *posse comitatus* if necessary in making such arrests; and upon failure of such policeman to perform his duty, he shall be liable to such fines and penalties as said Council may fix by ordinance: *Provided*, That the imprisonment provided for in this Section shall not deprive the party so imprisoned of his right to trial as hereinbefore provided.

Powers of
council of
cities or
towns.

1908, XXV,
1017; 1909,
XXVI, 80;
1910, XXVI,
823.

Sec. 2643. The said Council shall have full power to abate all nuisances within the corporate limits of said city or town, to appoint a Board of Health for said city, and to pass all such ordinances as may be necessary to define the duties of said Board. Said Council shall have power to borrow money for corporate purposes, and to issue from time to time as occasion may require, bonds of the corporation for the payment of the principal for which said city shall be at all times liable: *Provided*, The property of the inhabitants of said city or town shall be bound for the payment of any sum so borrowed, and the interest thereon in no other way than by the imposition of an annual tax: *Provided, further*, That no such bonded debt shall in any instance exceed the maximum limits prescribed in the Constitution of this State, and that no bonded debt shall be created or increased except upon the vote of the citizens of the municipality as provided in the Constitution: *Provided, further*, That in the anticipation of the collection of taxes in any fiscal year, said City or Town Council, whether such city or town be chartered by special Act of the General Assembly or under the general law, may from time to time, as occasion may require, borrow money for corporate purposes on its note or notes, and pledge the taxes levied, or to be levied in said year for corporate purposes, for the payment of such note or notes and the discount or interest thereon, and such note or notes it is hereby authorized to

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generally, if desired, without responsibility to the corporation advancing money on said security, to application of the funds realized thereon.

Wheeler, 78 S. C., 98 ; 52 S. E., 874.

4. The members of each Council shall, within
s after the expiration of their term of office, and
ie of the qualifying of the members of the new
nake and deliver to the members of such new
full and accurate account of their receipts and
res during the term for which they were elected.
shall likewise publish at the end of each year,
beginning of their term of office, a full statement
receipts and expenditures during the preceding
the expiration of the term of office of any Council
e their duty to pay over to their successors any
their hands or under their control at the time of
uch returns, belonging to said corporation, and
o deliver up promptly at the end of their term all
ords or other property incident to their said offices,
successors; and on failure so to do they shall be
the punishment prescribed by the following Sec-

Reports of Council.

Civ. '02, § 1990.

15. For any wilful violation or neglect of duty,
ce, abuse or oppression, the Mayor or Aldermen so
shall be liable to punishment by a fine not exceed-
hundred dollars or imprisonment not exceeding
rs, besides being liable for damages to any person
y such neglect, malpractice, abuse or oppression.

Negligence of officer.

Civ. '02, § 1991.

ARTICLE V.

PROVISIONS AS TO CITIES CONTAINING MORE THAN TEN THOUSAND INHABITANTS.

acquire land for certain
poses.
ion of debts beyond cur-
income.

Sec.

2648. Municipal elections in Char-
leston.

2649. May require coal weighed on
public scales in cities over
10,000 inhabitants.

2646. The City or Town Council of any city or
more than 45,000 inhabitants is vested with power

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Certain municipalities may acquire and hold land for certain purposes.

Civ. '02, § 1992.

to have, hold and possess in fee simple, through purchase or otherwise, such lands already acquired, or hereafter to be acquired, as it shall deem proper, to be used as hospital or quarantine sites, or as parks, or for other municipal purposes: *Provided*, That such lands as are not or may not be acquired or held for the purpose of establishing a system of water works, or in connection therewith, shall be situated within a radius of twelve miles from the site of the city or town hall in such city or town.

Conditions upon which city or town councils may create debts beyond the municipal income of the current year.

Civ. '02, § 1993.

Sec. 2647. It shall not be lawful for the City or Town Council of any city or town of over 45,000 inhabitants to create any debt beyond the municipal income of the current year, or to endorse or guarantee the notes, bonds or obligations, or accept the drafts of any company, corporation, person or persons, for any purpose whatsoever, unless the following terms and conditions be first observed and complied with:

First. A resolution declaring the intention of the said City or Town Council to create such indebtedness, or incur such liability, and specifying the amount thereof, shall first be passed at a regular meeting of the said City or Town Council by a vote of two-thirds of the whole body.

Second. That the proposition, after being adopted in such manner by the said City or Town Council, shall be submitted to the qualified voters of the said city or town at an election to be held under resolution of the said City or Town Council, after ninety days' notice thereof; and should two-thirds of the number of qualified voters voting at the preceding municipal election vote affirmatively at the said election, the proposition shall then be submitted to the General Assembly of the State of South Carolina for approval; and should the proposition be approved by the said General Assembly, the said City or Town Council shall have the authority to create the debt or incur the liability: *Provided, however*, That nothing in this Section contained shall apply to any debt contracted, or to any note, bond, draft or obligation executed, indorsed or guaranteed by the City or Town Council of such city or town, and approved and confirmed by a two-thirds vote of the whole of the said City or Town Council, at a regular meeting thereof, for the purpose of the establishment of a sewerage system, or for the purpose

A. D. 1912.

a supply of water or light for its public use, by for the purpose of a lease, purchase, construction by the said City or Town Council of any plants, for water works or lighting purposes, one and for any of such purposes the City or Town cities or towns of over 45,000 inhabitants are authorized and empowered to create debts and liabilities beyond the municipal income of the current year, the same being approved and confirmed by a vote of the whole of the said City or Town at a regular meeting thereof: *Provided*, That no construction of said plant or plants for water lighting purposes shall be made by the said City Council, except upon a majority vote of the electors of the said cities or towns, who are qualified to vote on the indebtedness of the said cities or towns.

The City of Charleston is hereby divided into wards, as follows: Ward number (1) one shall embrace that portion of said city lying south of Broad street and east of King street; Ward number (2) two shall embrace that portion of the said city lying south of Broad street and west of King street; Ward number (3) three shall embrace all that portion of the city lying north of Broad street, south of Hasel street, and east of King street; Ward number (4) four shall embrace all that portion of the said city lying north of Broad street, south of Hasel street, and west of King street; Ward number (5) five shall embrace all that portion of the said city lying north of Hasel street, south of Calhoun street and east of King street; Ward number (6) six shall embrace all that portion of the said city lying north of Calhoun street, south of Mary street, and east of King street; Ward number (7) seven shall embrace all that portion of the said city lying north of Mary street, south of Radcliffe and Bee streets and east of King street; Ward number (8) eight shall embrace all that portion of the said city lying north of Bee street, south of Radcliffe and Bee streets and east of King street; Ward number (9) nine shall embrace all that portion of the said city lying north of Mary street, south of Radcliffe and Bee streets and east of King street, boundary, east of Nassau street up to its intersection with Amherst street, east of Hanover street; Ward

Boundaries
of Wards and
provisions as
to municipal
elections in
city of Char-
leston.

Civ. '02, §
1994.

A. D. 1912.

number (10) ten shall embrace all that portion of the said city lying north of Mary street, west of Nassau street up to its intersection with Amherst street west of Hanover street to the city boundary, and east of King street; Ward number (11) eleven shall embrace all that portion of the said city lying west of King street, east of Rutledge avenue, and north of Radcliffe street to the city boundary; Ward number (12) twelve shall embrace all that portion of the said city lying north of Bee street to the city boundary, and west of Rutledge avenue.

Number of
Aldermen.

2. Each Ward shall be represented in the City Council by two Aldermen.

Election of
Mayor.

3. The Mayor shall be elected by the qualified voters of the said city at the times and for the term of office now prescribed by law. And the person possessing the qualifications now required by law for said office, who shall receive the highest number of votes cast at such election shall be such Mayor.

One Alderman
elected
by each Ward.

4. One Alderman for each Ward shall be elected by the qualified voters thereof, at the times and for the term now prescribed by law for Alderman of said city. Each Alderman so elected must be, and during his term of office must remain a resident of the Ward for which he is elected.

Twelve Aldermen
elected
at large.

5. The other twelve Aldermen shall be elected on a general ticket by the qualified voters of the said city, at the times and for the term now prescribed by law for the Aldermen of the said city. Each Alderman so elected on such general ticket shall be, and during his term of office shall remain a resident of the Ward for which he is elected.

Polling precincts.

6. There shall be at least one polling precinct in each Ward.

Registration
of voters;
conduct of
election.

7. The Commissioners and Managers of Election shall be appointed in the same mode and shall be invested with the same powers and duties now prescribed by law. The voters shall be registered, and the election shall be conducted in the same manner as now prescribed by law, save and except as is provided in the following Sections.

Number of
ballot boxes.

8. For each election the Commissioners of Election shall provide at least three ballot boxes, in one of which shall be deposited the ballots for Mayor and Aldermen on the general ticket, in one of which shall be deposited the votes

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man of the Ward, in one of which shall be deposited for School Commissioner; and if any question is to be submitted to the people of said city, under any Joint Resolution or Ordinance, one other box, in which votes on such question or questions shall be deposited. The ballot boxes shall be constructed and the precincts be guarded as is provided in State elec-

tioning shall be by ballot, which ballot shall be of ^{Form of ballots.} a paper, two and a half inches wide by five inches high and even cut, without ornament, designation, symbol or mark of any kind whatever; except the names of the person or persons voted for; and for which such person or persons are intended to be elected. On which name or names, and office or offices, shall be written, or printed, or partly written, or partly printed in black ink across such ballot in plain Roman letters. Such ballot shall be so folded as to conceal the names thereon, and so folded shall be deposited in the box in which it is found. The ballot boxes for State elections. And no ballot of any other kind found in an election box shall be counted nor shall it be lawful to count any ballot upon which there appears the name of any officer, or the name of any person in connection with any office other than the office for which the box in which such ballot is found is pro-

vided in case of a vacancy in the office of Mayor, caused by the death, resignation, refusal to serve, inability, or any other disability of the person elected to be Mayor, the City Council shall forthwith proceed to fill such vacancy by electing one of their own number to act as Mayor for the term, but such election shall not create a vacancy in the office of Alderman in the place of the Alderman thus elected. Nothing herein contained to prevent the election of a Mayor *pro tempore* in case of temporary absence or inability of the Mayor.

In case of any vacancy in the office of Alderman, by the death, resignation, refusal to serve, removal, or any other disability of the person elected as Alderman therein, it shall be the duty of

Vacancy in the office of Mayor; how filled.

Vacancy in office of Aldermen; how filled.

A. D. 1912.

the Mayor, within ten days after such vacancy has occurred to order an election to fill the same; and in case the Mayor shall not, for any reason, order such election, it shall be the duty of the City Council to do so at its first meeting after the expiration of the same ten days. The time of notice of such election, and the mode of conducting the same, shall in every respect conform to those prescribed for the general election of Mayor and Aldermen of the city. *Provided, however,* That whenever such vacancy shall occur in the office of an Alderman who has been elected on a general ticket as provided in Subdivision 5 of this Section and known as an Alderman at large, then in such case the Ward Alderman shall serve for and during such unexpired term as Alderman at large, and the vacancy filled by the election of a Ward Alderman as provided in Subdivision 4 of this Section.

Coal to be weighed on the public scales; when.

Civ. '02, § 1995.

Sec. 2649. The municipal authorities of the cities and towns of this State of not less than ten thousand inhabitants, and they are hereby, empowered to require all dealers of coal to weigh all coal sold within the limits of such cities and towns upon the public scales of such cities and towns and to impose a charge therefor of not more than ten cents for each draft.

Penalty.

Said municipal authorities may enforce the provisions of the foregoing Section by such fine and imprisonment as may be now or hereafter prescribed by law for the violation of the ordinances of such cities or towns.

ARTICLE VI.

SPECIAL PROVISION AS TO CITIES OF MORE THAN TWENTY THOUSAND INHABITANTS.

Sec.

- 2650. Police Commissioners may be established in certain cities.
- 2651. Powers to elect and manage police officers.
- 2652. Charges against policemen.
- 2653. Attendance of witnesses.
- 2654. Monthly meetings.
- 2655. Further duties.
- 2656. Certain cities may have firemen's pension fund.

Sec.

- 2657. Board; who to compose.
- 2658. How funds raised.
- 2659. Investments.
- 2660. How money paid.
- 2661. Deposits.
- 2662. Same.
- 2663. Report.
- 2664. Payments to pension fund.
- 2665. City attorney to act.
- 2666. Rules.

A. D. 1912.

ns; how paid.

ent funds.
cient funds.

Sec.

2671. Limit to fund.

2672. Public baths may be estab-
lished; rates.

2650. The Mayor and Aldermen of any city of
 in twenty and not more than fifty thousand inhabi-
 l have full power and authority to establish in
 a Board of Police Commissioners, which shall
 five members including the Mayor, a majority of
 ll be a quorum for the transaction of business.
 exception of the Mayor no member of said Board
 member of the City Council. The first election
 ld at the first meeting of the Mayor and Alder-
 d to succeed the present Mayor and Aldermen of
 f not less than twenty thousand inhabitants, and
 hereafter as may be necessary. At such election
 r of the Board shall be elected to serve one year,
 ve two years, one to serve three years, and one to
 years, and thereafter one member of said Board
 lected annually to serve for four years. The
 ll serve on said Board a term coequal with his
 ice, unless his office is sooner vacated by him, and
 ccessor is elected and qualified. Should a vacancy
 e Board from any other cause than the expiration
 r term, an election to fill it shall be held by the
 il as soon thereafter as practicable, and the mem-
 shall hold for the unexpired term and until his
 s elected and qualified. The members of the
 l serve without compensation.

Police Com-
 missioners
 may be estab-
 lished in cer-
 tain cities.

1902, XXIII,
 1050.

Election for ;
 Mayor a mem-
 ber *ex officio*.

No compen-
 sation.

.. The Board of Police Commissioners thus
 under this Article shall have the exclusive power,
 ll be their duty to elect a Chief of Police, and
 police officers as is or may be prescribed by the
 of such city. This power extends to unexpired as
 gular terms. Said Board shall also have the
 it shall be its duty to provide temporary police
 policemen as occasion requires, such temporary
 rs and policemen to be paid as may be prescribed
 ce. The said Board shall have full and exclusive
 d management of the police force of such city;
 the power to discharge, suspend, or fine the

Power to
 elect police
 officers, con-
 trol and man-
 age same.

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**Charges
against po-
licemen; pro-
ceedings on.**

officers and members of the police force, and to make and enforce rules and regulations for its government.

Sec. 2652. The mode of preferring accusations against the officers and members of the police force, and of their trial, shall be prescribed by city ordinance. The City Council shall also prescribe the manner of suspending until trial the Chief of Police or any other police officer or policeman when the accusation is brought; and in all such cases the Board of Commissioners of Police may make appointments to the office in place of the suspended person, such appointment to hold during suspension.

**Attendance
of witnesses.**

Sec. 2653. When any person resident of any city that establishes a Board of Police Commissioners under this Article, shall be required to attend as a witness the trial of any officer or member of the police force before said Board, it shall be the duty of the Secretary of said Board, upon application, to issue a subpoena directed to such person, stating the cause and time appointed for the trial; and if any witness thus subpoenaed fails to appear, he or she may be attached by the Board for contempt. The attachment shall be directed to some one of the police force of such city, and made returnable before said Board at some stated time, and the said Board may punish said witness by fine not exceeding ten dollars, or imprisonment not exceeding thirty days, unless he or she show good cause for not obeying said subpoena.

**Monthly
meetings.**

Sec. 2654. Such Board of Police Commissioners shall hold a stated meeting each month, and such other meetings as the public interest may from time to time require. At its first meeting the said Board shall elect one of the members of the Board Secretary thereof, who shall keep a record of the proceedings.

**Further du-
ties.**

Sec. 2655. The City Council of the cities establishing Boards of Police Commissioners under this Article shall have power, from time to time, by ordinance, to devolve such further duties upon said Boards and to prescribe such further rules and regulations for the government of said Boards as are not inconsistent with the provisions of Sections 2650, 2651, 2652, 2653, 2654 and 2655.

Sec. 2656. In all cities of twenty thousand inhabitants or more in this State having fire departments, as hereinbe-

, the City Council thereof is hereby authorized
 ered to form a pension fund, create a Board of
 manage said fund, and to raise funds for the
 of disabled and retired firemen of said cities.

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Certain cities
 may have
 pension fund.

1904, XXIV,
 490.

Fire Insurance Company v. Jones, Comptroller, 78 S. C.. 445 ;

. The Board of Trustees shall consist of five
 s follows: The Chairman of the Board of Fire
 ers or Fire Masters, the City Treasurer, the
 the Fire Department, and two citizens, to be
 by the Mayor and confirmed by City Council.
 ce for such time as City Council may elect. In
 ig no Board of Fire Commissioners, the Mayor
 member of the Board of Trustees of the Pension
 d Board shall select from their number a Presi-
 ecretary. The City Treasurer shall be Treasurer
 ard and custodian of said Pension Fund.

Board ; who
 to compose.

. The funds for such Pension Fund shall be
 ollows:

How funds
 raised.

City Council of all cities having Boards of Trus-
 this Act shall levy and collect annually one (1
 per cent. of all gross receipts for premiums
 foreign fire insurance companies or their agents
 ness in said cities, such amounts to be paid into
 ension Fund by the Treasurer of the said cities
 y.

forfeitures and fines imposed upon any member
 Department force by way of discipline shall be
 aid Pension Fund.

proceeds from sales from condemned horses and
 onal property in use in said departments may be
 aid Pension Fund.

Board of Trustees may take by gift, devise or
 y money, real estate, personal property, or other
 hings so obtained, and pay the same into the
 und, and same to be treated as part thereof.

l. Said Board of Trustees shall have power to Investments.

Pension Funds in the name of the "Board of
 f the Firemen's Pension Fund," in interest bear-
 of the United States, of the State of South Caro-
 the city in which such Board of Trustees is in

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operation. All such securities shall be deposited by the Treasurer, with other securities of such city, and shall be subject to the order of the said Board of Trustees.

How money
paid.

Sec. 2660. All moneys ordered to be paid by said Board of Trustees shall be paid by the Treasurer only upon warrants signed by the President of the Board and countersigned by the Secretary thereof, or in the absence of either one or both of said officers by the President and Secretary, *pro tem.*, as may be appointed by the Board of Trustees at a meeting called for that purpose, and no warrant shall be drawn except by order of the Board, duly entered in the records of the proceedings of the Board.

Deposits.

Sec. 2661. In case the said Pension Fund, or any part thereof, shall, by order of said Board or otherwise, be deposited in any bank or banks, all interest or money which may be paid or agreed to be paid on account of such sums or deposit shall belong, paid or agreed to be paid, on account to, and constitute a part of said fund: *Provided*, That nothing herein contained shall be construed as authorizing said Treasurer to deposit said funds or any part thereof unless so authorized by the Board.

Sec. 2662. Upon the organization of a Board of Trustees of Firemen's Pension Fund under this Article, said Board shall, at its first meeting select a bank or banks in such city in which all moneys shall be deposited by the Treasurer of such Board.

Report.

Sec. 2663. The Board of Trustees shall make report to the City Council of the said city of the condition of said Pension Fund at the first meeting of City Council in January of each and every year.

Payments to
pension fund.

Sec. 2664. City Councils of cities having a Board of Trustees of Firemen's Pension Funds, under this Article shall ordain and order that the City Treasurer pay into the said Pension Fund, semi-annually, at such dates as may be adopted by said City Council, the amounts as levied. said Treasurer to report same to the Secretary of the Board of Trustees to be entered on the records of said Board at its next meeting.

Collection of
assessments.

The Collection of the assessments under this Article shall be liable to enforcement the same as any other taxes under the laws of this State.

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6. It shall be the duty of the City Attorney or
 n Counsel to give advice to said Board of Trus-
 matters pertaining to their duties and the man-
 said Firemen's Pension Fund whenever there-
 ted, and he shall represent and defend said Board
 ey in all suits or actions at law or in equity that
 ught against it, and bring all suits and actions
 lf that may be required or determined upon by

City Attor-
ney to act.

7. The Board of Trustees of the Firemen's Pen-
 shall make all needful rules and regulations for Rules.
 ent in the discharge of its duties, and shall hear
 all applications for pensions hereunder, and
 s on such applications shall be final and con-
 not subject to review or reversal except by the
 e Board shall cause to be kept a record of all its
 d proceedings.

Pensions shall be allowed and paid as follows: Pensions:
how paid.
 member of the Fire Department of said cities
 sion Funds, who shall, while in the performance
 s in said Fire Department, and while respond-
 ns of fire, become and be found, upon examina-
 physician, to be appointed by City Council of
 be physically or mentally disabled by reason
 vice in said Fire Department, said Board of
 the Firemen's Pension Fund shall, upon the
 f said physician and by a majority vote, retire
 d member from service in said Fire Department:
 o such retirement on account of disability shall
 s said member has contracted said disability
 e service, and in the performance of his duty.
 retirement the said Board of Trustees shall
 ayment to such disabled or retired member of
 epartment monthly from said Pension Fund,
 to one-half the monthly compensation allowed
 ber as salary, at the date of such retirement.
 oard of Trustees, by a majority vote of its mem-
 ith the approval of said physician appointed Right to re-
tire.
 Council, shall have power to retire from service
 epartment any member thereof who has become
 age or other causes, and who has performed

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faithful service in the department for a period of not less than twenty (20) years, twelve (12) of which having been consecutive, and he shall in such case place the member so retired upon the pension roll, such retired member shall receive from the Pension Fund monthly an amount equal to one-half the monthly compensation allowed to such member as salary at the date of such retirement.

Killed in line of duty.

3d. In case any member of such Fire Department is killed or dies while in the performance of his duties as a fireman, the Board of Trustees shall pay the amount of one hundred (\$100) dollars from said Pension Fund for funeral expenses to the nearest relative of said fireman.

Exempt from execution, etc.

4th. No person shall be entitled to receive any pension from said fund except a regularly retired member, or a regular member doing fire duty in said Fire Department.

5th. No portion of said Pension Fund shall either before or after its order of distribution by said Board to such disabled and pensioned member of said Fire Department be held, taken, subjected to, or retained, or levied on by virtue of any attachment, execution, injunction, writ, interlocutory or other order or decree, or any process or proceeding whatever issued out or by any Court of this State, for the payment or satisfaction in whole or in part of any debt, damages claim, demand, or judgment against any member, but the said fund shall be sacredly held, kept, secured and distributed for the purpose of pensioning the persons, or the payment of funeral expenses, as named in this Article, and for no other purpose whatsoever.

List.

Sec. 2668. There shall be kept in the office of the Board of Trustees by the Secretary a book to be known as the list of retired firemen. This book shall give a full and complete history and record of all the actions of the Board of Trustees in retiring any and all persons hereunder, and the records shall give names, date of joining the department, date of retirement and the reason thereof, of any and all persons retired.

Sufficient funds.

Sec. 2669. When the Pension Fund of any city shall have reached an amount of such proportions that the interest thereon is sufficient to pay all pensions and expenses, no further taxes shall be levied for the benefit of the Pension Fund until such interest is not any more sufficient to pay such pensions and expenses.

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Insufficient funds.

Limit to fund.

Public baths may be established in certain cities.

Rates for use.

0. If at any time, from any unforeseen cause, not be sufficient money in said Pension Fund to person entitled to the benefit thereof, the full er month as herein provided, then, an equal per- such monthly payment shall be made to each until the said fund shall be replenished suffi- warrant the resumption of payment thereafter, of on pay to each of said beneficiaries.

1. No persons shall be allowed or passed upon by d of Trustees until the amount of one thousand dollars shall be on hand to the credit of the said und, and such Pension Fund shall be exempt from on whatsoever.

2. All cities of more than twenty thousand popu- y establish and maintain such number of public the local Board of Health may determine to be each bath shall be kept open not less than four- s per day, and both hot and cold water shall be

The erection and maintenance of river or ocean ll not be deemed a compliance with the require- this Section.

ties may establish rates for the use of such baths, int officers therefor, and may enact laws for the nt of such officers and authorize them to make is for the management thereof.

ARTICLE VII.

NERAL PROVISIONS AS TO CITIES AND TOWNS.

city and town charters y be amended.	Sec. 2682. City Council; how elected.
icipal charters perpetual.	2683. Salary of mayor or intend- ant of cities and towns.
municipal charters may extended.	2684. Licenses for sale of fresh meats. Exceptions.
e of election.	2685. Farm products marketed without licenses.
ration of result.	2686. No municipal officer may con- tract with municipality.
corporate limits may be ended.	2687. Jurisdiction of municipal courts.
corporate limits may be reased.	
e powers.	

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Sec.

- 2688. Municipal courts authorized in cities of not less than 2,000 inhabitants.
- 2689. Jurisdiction.
- 2690. Punishments by municipal courts.
- 2691. Right of appeal.
- 2692. Municipal taxes; on what property levied.
- 2693. Towns and cities authorized to collect taxes in installments.
- 2694. Unlawful for municipal officer to apply proceeds of tax specially levied for any other purpose.
- 2695. Municipalities may grant exclusive franchises for furnishing lights and water.
- 2696. Powers of cities and towns to construct and operate water works and electric light.
- 2697. Sewerage commission; when and how constituted.
- 2698. Duties of.
- 2699. Condemnation proceedings by municipal authorities.
- 2700. Use of streets.
- 2701. Cities and towns may furnish lights and water beyond city limits.
- 2702. Election of commissioners of public works, terms of office, &c.
- 2703. Powers of commissioners.
- 2704. Municipalities to provide drains for surface water.
- 2705. Taxes therefor; how levied and collected.
- 2706. Cities and towns may purchase lands, &c., for certain municipal purposes.
- 2707. Municipal corporations may condemn land for water works.
- 2708. Other companies shall have the same right.
- 2709. Damages may be recovered.
- 2710. Condemnation to be made in same manner as for railroads.
- 2711. To which cities applicable.
- 2712. Municipal corporations may own land for the use of the corporation.
- 2713. May condemn.
- 2714. Valuation of land; how made.
- 2715. Appeal may be taken to Circuit Court.

Sec.

- 2716. Clerk of Court may execute deed.
- 2717. Landowner to be summoned.
- 2718. Guardian ad litem in case of person under disability.
- 2719. Proceedings not to be suspended by appeal.
- 2720. Oaths of commissioners.
- 2721. Powers to be in addition to powers now enjoyed.
- 2722. Power to hold property.
- 2723. Cities and towns may issue bonds for certain purposes.
- 2724. How issued.
- 2725. Tax for the payment thereof.
- 2726. Powers of city or town council to make the coupons receivable for taxes.
- 2727. Corporate authorities to issue bond.
- 2728. Provisions made to apply to counties.
- 2729. School districts included.
- 2730. Not to affect certain county bonds.
- 2731. Special elections as to issue of municipal bonds for certain purposes.
- 2732. Who entitled to vote.
- 2733. Municipal corporations may issue certificates of stock.
- 2734. Causes of action for damages from defect of streets, mismanagement, etc.
- 2735. Power to lay pipes for water supply, &c.
- 2736. Any city or town may subscribe to a free public library; election.
- 2737. Conduct and notice of election.
- 2738. Municipal corporations may own and operate rock quarries.
- 2739. Cities and towns may pass their ordinances for vaccination.
- 2740. Board of Health to have general supervision.
- 2741. If cities neglect to do so Board of Health may pass rules.
- 2742. Pupils to be vaccinated.
- 2743. Parents, etc., to see that children are vaccinated.
- 2744. Police of any city or town may arrest within one mile of corporate limits.

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and towns may require
in articles weighed on
scales.

pal authorities may
use lands for streets.
lings in condemnation.
of Court to execute
when owner fails.

Sec.

2749. Meeting of owners to ap-
point commissioners; how
called; failure to appoint,
effect of.

2750. Service of notice, where
owners are under disability.

2751. Oaths of commissioners.

2752. Cities of 40,000 inhabitants
authorized to require as
much as \$2,500 for licenses.

The charter or articles of incorporation of any
in this State, whether such city or town was
incorporated by Act of the General Assembly
the general law by the Secretary of State, may be
any particular, not inconsistent with the Consti-
laws of the State, in the following manner: A
all first be submitted to the Town or City Council
ity of the freeholders of such town or city, pray-
election be ordered, to ascertain whether such
or amendments ought to be made or not; where-
aid Council shall order an election, after not less
days' public advertisement. At such election each
shall be voted upon separately, and the tickets
shall be prescribed by the said Council in such
plainly express the will of the voter as to each
submitted. At such election the qualified electors
municipality shall be allowed to vote on the question
s of the proposed amendment or amendments, at
voting places, in a box provided for the purpose
voting place. If a majority of the votes cast be
and declared to be in favor of any or all of the
amendments, then the said Council shall publish
of said election, and declare the adopted amend-
amendments to be a part of the charter of incor-
such city or town, plainly showing the reading
s involved as amended, and shall forthwith file
Secretary of State a copy of such declaration;
such adopted and declared amendment or amend-
stand as a part of the charter of incorporation
or town.

How city
and town
charters may
be amended.

Civ. '02, §
1998.

is permissive and directory, and has no effect on prior exist-
Hill v. City Council of Abbeville, 59 S. C., 407; 38 S. E., 16.
contract with city for street paving.—Blassingame v. City of
C., 38; 61 S. E., 96.

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Municipal
charters per-
petual.1904, XXIV,
500.How munic-
ipal charters
may be ex-
tended.1902, XXIII,
1043.Election to
be held.

Notice of.

How con-
ducted.Declaration
of result.

Sec. 2674. All municipal charters heretofore or hereafter issued by the Secretary of State shall be, and are hereby declared to be perpetual: *Provided*, That nothing contained in this Section shall be deemed or taken to prevent the General Assembly from amending or repealing said charters.

Sec. 2675. The charters or articles of incorporation of any city or town in this State, incorporated or chartered under a general law by the Secretary of State, may be extended in the following manner:

A petition shall first be submitted to the town or city council, signed by a majority of freeholders, who are citizens of said town or city, setting out the length of time it is desired to extend the charter of such town or city, and praying that an election be ordered to ascertain whether such extension should be made or not; whereupon the council of such town or city shall order an election to be held on such question, and shall appoint managers to conduct the same.

Sec. 2676. The Council of such city or town shall give notice of such election by publishing the same for twenty consecutive days in the newspapers published therein, or, if there be no such newspapers, then by posting in not less than three public places within the corporate limits, which notice shall plainly and definitely state the object of such election.

Sec. 2677. The polls shall be opened at the usual voting precincts in such town or city from eight o'clock A. M. until four o'clock P. M., and tickets or ballots shall be prescribed by the Council of such city or town on which shall be printed or written the words, "For the Extension" and "Against the Extension," respectively, so as to plainly express the will of the voter. At such election the qualified electors of the municipality shall be allowed to vote on the question of such extension of the charter.

Sec. 2678. If a majority of the votes cast be ascertained and declared to be in favor of the proposed extension of the charter of such town or city, then the Town or City Council, as the case may be, shall publish the result of such election and declare the charter extended for the time mentioned in the petition, and shall forthwith file with the Secretary of State a copy

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tion and declaration duly signed by the members
 or City Council in their official capacity, and
 as being correct by the Clerk of such town or
 ereupon the Secretary of State shall issue his Certificate of
 extension.
 to the Council of such city or town declaring
 thereof extended for the number of years stated
 tion and declaration: *Provided*, That before issu-
 certificate the Secretary of State shall require the
 f the fees provided by law.

1. Any Town or City Council shall have power How the in-
 corporate lim-
 its of cities
 and towns
 may be ex-
 tended.
 the corporate limits of said city or town in the
 manner: A petition shall first be submitted to
 ail by a majority of the freeholders of the terri-
 it is proposed to annex, praying that an election
 to see if such territory shall be included in said
 said Town Council shall order an election after
 an ten days' public advertisement. At such elec-
 alified voters of the municipality shall vote at
 oting precincts thereof in a box provided for that
 nd the qualified electors of the territory pro-
 e annexed shall vote in a separate box to be pro-
 that purpose within the territory proposed to be
 If a majority of the votes cast by the qualified
 the town and of the territory proposed to be
 ach aggregated separately, shall be each in favor
 ion, or if neither give a majority against annexa-
 the Council shall publish the result of said elec-
 eclare the annexed territory a part of said town:
however, That if the property sought to be
 longs to a corporation only, it may be annexed on
 n of the stockholders of said corporation. Any
 easing its territory shall file a notice with the
 of State describing its new boundaries.

2. Any town or city may reduce its corporate How cities
 and towns
 may decrease
 their limits.
 the following manner: Whenever a petition is
 to the Town Council signed by a majority of
 t freeholders of said town asking for a reduction Civ. '02, §
 1998.
 orate limits of said town, then said Council shall
 ection after not less than ten days' public adver-
 such advertisement shall describe the territory
 posed to be cut off. At such election, should a

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majority of the qualified electors vote in favor of the release of the territory, then said Council shall issue an ordinance declaring the territory no longer a portion of said town, and shall so notify the Secretary of State, furnishing him at the same time with the new boundaries of said town.

Extension of limits to include cemeteries.

Any town or city may extend its corporate limits so as to include any or all cemeteries adjoining said town or city, for the purposes only of police and sanitary measures, by the passage of "an ordinance" declaring them to be a portion of said town or city; but the inclusion of said cemeteries does not convey to the city or town the right to tax them in any manner whatsoever.

City and town councils to have power to enact rules or ordinances for its police government.

Civ. '02, § 1999.

Sec. 2681. The City Councils and Town Councils of the cities and towns of the State shall, in addition to the powers conferred by their respective charters, have power and authority to make, ordain and establish all such rules, by-laws, regulations and ordinances respecting the roads, streets, markets, police, health and order of said cities and towns, or respecting any subject as shall appear to them necessary and proper for the security, welfare and convenience of such cities and towns, or for preserving health, peace, order and good government within the same. And the said City or Town Councils may fix fines and penalties for the violation thereof, not exceeding one hundred dollars' fine or thirty days' imprisonment: *Provided*, That such rules, by-laws and ordinances shall not be inconsistent with the laws of this State: *Provided, further*, That nothing herein contained shall be construed to repeal the law establishing local Boards of Health.

Burial grounds.—City Council v. Baptist Church, 4 Strob., 306. Cultivation of soil.—Summerville v. Pressley, 33 S. C., 56; 11 S. E., 545. Carrying concealed weapons.—Abbeville v. Leopold, 61 S. C., 99; 39 S. E., 248. Street railways.—State v. Sloan, 48 S. C., 21; 23 S. E., 898. As to power of Courts to pass on the reasonableness of ordinances, see Darlington v. Ward, 48 S. C., 570; 26 S. E., 906. Ordinance against permitting any inclosed place or house to be used as a place for gambling.—City Council of Greenville v. Kemmies, 58 S. C., 427; 36 S. E., 727. Ordinances against swine running at large.—Kennedy v. Sowden, 1 McM., 326; Crosby v. Warren, 1 Rich. L., 385. Keeping hogs in town.—Darlington v. Ward, 48 S. C., 570; 26 S. E., 906. Keeping liquors in shops.—Helsenbrittle v. City Council, 2 McM., 233; City Council v. Ahrens, 4 Strob., 306. Bawdy houses.—State v. Williams, 11 S. C., 288. Sunday observance.—City Council v. Benjamin, 2 Strob., 508.

They have only powers as are expressly granted by the Legislature or are necessarily implied from those so granted.—Blake v. Walker, 23 S. C., 517.

In all towns and cities which by law have been divided into Wards or other political and geographical sections, Town or City Councils shall be composed of Aldermen elected from each Ward or section by the electors of such Ward, and not by the electors at large of said towns or cities, and the Mayors or Aldermen shall be elected at large by a direct vote of the electors of such city or town: *Provided*, That the provisions of this Section shall not apply to the cities of Georgetown, Sumter, Marion, Summerville and

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City Councils; how elected.

Civ. '02, § 2000.

The salary of the Mayor or Intendant of any town in the State of South Carolina shall be and shall remain the same after any such city or town shall have adopted its charter, or whose charter shall have expired, until the city or town has been reincorporated under the provisions of the State, that it was prior to the reincorporation of such city or town, whether such reincorporation has taken place heretofore or shall take place hereafter. Such salary shall be changed by law.

Salary of Mayor or Intendant of cities and towns.

No City or Town Council shall charge any citizen of this State license fees for the right to sell or for sale fresh beef, pork, mutton, fish, poultry, fruit, or produce raised or grown by the vendor, excepting regular butchers, who shall keep a regular butcher's stall or market within the incorporate limits of any city or town in which such license may be required.

Licenses for sale of fresh meats. Exceptions.

Civ. '02, § 2001.

Any farmer or stock raiser shall not give the holder thereof a monopoly of the articles enumerated above, but any farmer or stock raiser may sell or offer for sale, at any time, beef, pork, mutton, or veal in cities or towns granting such license without being required to pay any fee for the right so to do.

Any farmer or stock raiser may sell.

to prevent the city or town charging a regular butcher who keeps a stall within the corporate limits and has not stall therein, a license fee.—
Camden v. Roberts, 55 S. C., 374; 33 S. E., 456.

All products of the farms of this State may be sold in any town or city by the producer of said product without said producer being required to pay any fee for the right to make such sale: *Provided*, Said producer or agent shall not be liable in selling the produce of other persons.

Farm products marketed without license.

1902, XXIII, 1039.

No municipal officer shall take a contract to furnish or furnish material for the municipal cor-

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No municipal
officer may
contract with
municipality.

Civ. '02, §
2002.

poration of which he is an officer, and no such officer shall receive any compensation on any contract for said purpose: *Provided*, That in cities of over thirty thousand inhabitants such contracts may be allowed by the unanimous vote of City Council upon each specific contract, such vote to be taken by yeas and nays, and entered upon the Council's journal.

Jurisdiction
of municipal
Courts.

Civ. '02, §
2003.

Sec. 2687. The Intendants or Mayors of the cities and towns of this State that have been heretofore chartered or that may be hereafter chartered by special Act of the General Assembly or under general laws shall have all the powers and authority of Magistrates in criminal cases within the corporate limits and police jurisdiction of their respective cities and towns, and shall especially have the power and authority to speedily try all offenders against the ordinances of said town in a summary manner and without a jury unless demanded by the accused; and the Mayor *pro tempore* shall have the same powers. When the accused shall demand a jury, the same shall be drawn in the same manner as is provided for in the Courts of Magistrates. The Chief of Police or Marshal of the town, or such officer as the Mayor, Intendant or Mayor *pro tempore* may appoint, shall act as Constable to prepare the jury list; and the complainant, or some officer to be designated by the Mayor, Intendant or Mayor *pro tempore*, is authorized to make the challenges allowed on the part of the prosecution.

Right of
trial by jury.

See also Section 2589.

Similar provisions as to mode of trial; first by the Mayor and second on appeal, *de novo*, by the Council, considered in *Anderson v. O'Donnell*, 28 S. C., 364; 7 S. E., 523.

In criminal cases the municipal court must follow the practice prescribed for Magistrates' Courts.—*City of Greenville v. Latimer*, 80 S. C., 92; 6 S. E., 224. Punishment by labor on the streets.—*Town of Union v. Hazleton*, 83 S. C., 48; 64 S. E., 1017. Demand for jury trial.—*Town of Clatsop v. Leake*, 71 S. C., 28; 50 S. E., 541.

Municipal
Courts au-
thorized in
cities of not
less than 2,
000.

1904, XXIV,
397; 1905,
XXIV, 911.

Sec. 2688. It shall be lawful for the City Council of any city in this State, whose population by the last census was not less than two thousand, and not more than twenty thousand, or which may now or hereafter, by actual enumeration, have a population within said limits, by ordinance duly enacted, to establish in said city a Municipal Court.

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al and determination of all cases arising under
nce of such city.

1. Every Municipal Court established under the ^{Jurisdiction.}
of this Act shall be vested with all the powers ^{1904, XXIV,}
iction, and be held and conducted in the same ^{897.}
and be subject to all the terms and provisions which
l, expressed and declared in and by an Act enti-
Act to establish Municipal Courts, to define the
d jurisdiction of such Courts, and to provide
duct of the business thereof, in cities over twenty
and not exceeding fifty thousand inhabitants."

2. Whenever said Mayor, Intendant, or Mayor ^{Punishments}
pro tempore, shall find the party tried before him guilty ^{by municipal}
g an ordinance of said town, he shall have power ^{Courts.}
in his discretion, a fine, or imprisonment in the
s, not to exceed the limits prescribed for such
by the ordinances of said city or town, and such
ment may be accompanied with the additional
nt of hard labor on the streets of said city or town,
a regulation as by ordinances may be established.

3. All decisions of such Mayor, Intendant, or Mayor ^{Right of}
pro tempore, any defendant, feeling himself or herself ^{appeal to full}
shall have the right to appeal to the City or ^{Council.}
Council, provided he give notice of such appeal
twenty-four hours after sentence has been passed,
enter into bond to appear and defend before said
at a time to be specified in such undertaking, and
the sentences of the City or Town Council: *Pro-*
at in those cities of over five thousand inhabitants,
ted under Article 3 of this Chapter, the appellant
the fine imposed under protest and appeal to the
Council without giving bond. At the trial of such
e Mayor, Intendant, or Mayor *pro tempore*, shall
and the Aldermen shall sit as a Court, and a concur-
majority of the Aldermen present shall be neces-
he reversal of the judgment of the Mayor, Intend-
Mayor *pro tempore*; but if the Aldermen present
be equally in opinion, the judgment of the Mayor,
or Mayor *pro tempore*, shall be affirmed. They
rse, modify or confirm any or all rulings or con-

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clusions of the Mayor, Intendant, or Mayor *pro tempore*, made or reached in the first trial of the case.

An officer is not disqualified from acting as a judge or jurymen on the trial of defendant for violation of ordinance, on the ground that he is a party to the prosecution. But the Mayor or Mayor *pro tem.* before whom a trial has been had cannot vote as a juror on the appeal to Council from the decision.—City Council v. Fowler, 48 S. C., 8; 25 S. E., 900.

Punishment by labor on streets, alternative sentence; section constitutional.—Town of Union v. Hampton, 83 S. C., 48; 64 S. E., 1017.

Right of appeal to Court of General Sessions.

Civ. '02, § 2005.

Sec. 2691. From all the decisions of said Mayor, Intendant or Mayor *pro tempore*, or City or Town Council, any party in interest feeling himself or herself aggrieved shall have the right of appeal to the Court of General Sessions for the County in which the trial is had: *Provided, however*, That he must give notice of such appeal in writing within twenty-four hours after the sentence has been passed and enter into bond to appear and defend before said Court at its next ensuing session thereafter: *Provided*, That in those cities of over five thousand inhabitants incorporated under Article III of this Chapter, in all cases the person convicted shall have the right of appeal to the Court of General Sessions within five days from time of sentence. Such appeal may be taken either from the sentence of the Mayor or from the sentence of the City Council; but the appeal shall not operate to stay the execution of the sentence unless the appellant give bond, to be approved by the Mayor, conditioned to abide the judgment of the Court of General Sessions. Said appeal in said Court of General Sessions shall be heard upon the report of the presiding officer of the trial below and upon the testimony reported by him. The provisions of Sections 2687, 2690 and 2691 shall not apply to the City of Charleston.

Requirement that appeal be taken in twenty-four hours is constitutional.—Town Council of Due West v. Fuller, 72 S. C., 150; 51 S. E., 546.

Municipal taxes: on what property levied.

Civ. '02, § 2006.

Sec. 2692. All municipal taxes levied by cities and towns in this State shall be levied on all property, real and personal, not exempt by law from taxation, situate within the limits of said cities and towns, and in accordance with Section 6, Article VIII, of the Constitution of 1895.

The clauses of the charters of any towns or cities restricting taxation in said towns to real estate only are hereby repealed.

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n is intended to secure uniformity in taxation of property.—
 v. Co. v. Columbia, 54 S. C., 266; 32 S. E., 412.

3. The towns and cities of this State are hereby
 and empowered to collect the taxes of such
 ties in such installments as the municipal authori-
 f may by ordinance prescribe.

Towns and
 cities author-
 ized to collect
 taxes in in-
 stalments.

Civ. '02, §
 2007.

4. Whenever a municipal corporation shall levy
 a tax for any specific purpose, it shall be unlaw-
 officers or agents of any such municipal corpora-
 ply any of the proceeds of such tax levy to any
 ose than that for which it was collected until
 shall have been discharged or fulfilled or aban-

Unlawful
 for municipal
 officer to ap-
 ply proceeds
 of tax spe-
 cially levied
 for any other
 purpose.

1909, XXVI,
 124.

5. All cities and towns of the State of South
 re hereby empowered to grant to persons or cor-
 the exclusive franchise of furnishing light or
 id cities and towns and the inhabitants thereof:

Municipali-
 ties may
 grant exclu-
 sive fran-
 chises for fur-
 nishing lights
 and water.

That no such franchise shall be valid unless it
 receive the vote of two-thirds of the Board of
 or Common Council of the city or town grant-
 ne, and be subsequently confirmed by a vote of
 ty of the qualified electors of said city or town,
 n election to be called specially for the purpose:
ded, further, That the ordinance or resolution
 ich franchise shall fix a maximum rate for fur-
 ter or light, both for public and private con-
 beyond which the persons or corporation obtain-
 clusive franchise shall have no power to charge
 any further price for light or water thus fur-
d provided, That no such franchise shall exceed a
 thirty years, or affect any existing contractual

1902, XXIII,
 1039.

franchise not liable to individuals damaged by failure to fur-
 v. Camden Water, Light and Ice Co., 82 S. C., 284; 64 S. E.,
 A. (N. S.) 1029; Cooke v. Paris Mountain Water Co., 82 S. C.,
 157.

6. All cities and towns shall have full power and
 o construct and operate water works and electric
 : within the corporate limits of said cities and
 e use and benefit of said cities and towns and its
 d to purchase, own and operate apparatus for
 either electricity or gas for the use and benefit of

Powers of
 cities and
 towns to con-
 struct and
 operate water
 works and
 electric lights
 and to issue
 bonds to pay
 for same.

Civ. '02, §
 2008.

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Proviso
to bonds.

said cities and towns and its citizens; or to contract for the erection of plants either for water works or sewerage or lighting purposes, or sewerage, one or both, for the use of said cities and towns, and to supply the citizens thereof, and to meet the cost of same the said cities and towns may issue coupon bonds, bearing interest at a rate not to exceed six per centum per annum, payable in any legal tender money of the United States forty years after date, with the privilege of redemption after twenty years from date.

Provided, That before any bonds shall be issued under the provisions of this Section, the City or Town Council of said municipality shall submit the question of the issue to the qualified registered electors of such cities and towns, at an election to be held by said City or Town Council, appointed and conducted in accordance with the laws of force governing municipal elections: *And provided*, That before any elections shall be held under the provisions of this Section a majority of the freeholders of said city or town, as shown by the tax books of said city or town, shall petition said City or Town Council that the said election be ordered: and if a majority of electors voting at said election vote for said issue of bonds, the said City or Town Council shall so declare by ordinance, and shall issue said bonds and turn them over to the Board of Commissioners of Public works of said city or town hereinafter established.

Polls, when
opened.

All elections held under this Section the polls shall be opened at 8 o'clock in the forenoon and closed at 4 o'clock in the afternoon.

The Act must be read in connection with the Constitutional limitations as to amount of bonded indebtedness.—*Germania Savings Bank v. Darlington*, 50 S. C., 837; 27 S. E., 846. This Act is in effect an amendment to charter limiting the indebtedness of cities.—*Todd v. City of Laurens*, 48 S. C., 335; 26 S. E., 682. Rule for determining whether the Constitutional limit has been exceeded. *Ib.* As to election under this Act see *State ex rel. McWhirter v. Evans*, 47 S. C., 418; 25 S. E., 216; *Cleveland v. Calvert*, 54 S. C., 8; 31 S. E., 871. An agreement by which a city undertakes to issue certificates of indebtedness to be paid out of current taxes in future years in effect would create a bonded indebtedness within the meaning of the Constitution.—*Duncan v. City Council of Charleston*, 60 S. C., 532; 39 S. E., 265. So also attempt to purchase water works subject to a bonded indebtedness which is to be assumed by the corporation.—*Stehmeyer v. City Council*, 53 S. C., 259; 31 S. E., 822.

Election of sewerage commission.—*State ex rel. Farr v. Young*, 66 S. C., 115; 44 S. E., 568.

Sec. 2697. Any municipal corporation in this State which is about to enlarge, extend or establish a system of sewer-

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may, by its Mayor and Aldermen, or Intendant
ns, or City or Town Councils, elect five or seven
ns, who shall be freeholders therein, as a Sewer-
ssion, which shall be known and designated as
ge Commission of such municipal corporation,
continue as such for a term of two years and
successors are elected, or until the enlarging,
or establishment of its system of sewerage is
leted, as contemplated under the laws and ordin-
iding therefor: *Provided*, That not more than
as so elected as members of said Commission shall
s of the body electing such Commission. Any
curing in said Commission shall be filled by
hereinbefore provided; and any member thereof
oved for cause by any such City or Town Coun-
members of such Commission, before entering
duties, shall take the same oaths required of
f the body electing them.

Sewerage
Commission;
when and
how consti-
tuted.
1902, XXIII,
1040.

It shall be the duty of such Sewerage Com-
bjeet to the approval of such City or Town
advertise for bids for at least 30 days in two or
apers for the work to be done, for material to be
1, with the right to reject any and all bids, and
o contracts with the lowest responsible bidders
l to secure competent persons, if deemed advisa-
erintend the construction thereof and counsel
in matters relating thereto. Such Commission
the construction of the system of sewerage in
shall organize by electing one of its members
n thereof, and a Secretary, which may be the
as the Clerk of such City or Town Council. A
ecord shall be made and kept by the said Com-
all its proceedings, contracts and other matters
erformed by it, including an accurate plan of
ne, showing the situation of the sewerage pipes,
water flushes and all other things relating thereto
be shown. And such records shall be open at all
inspection of any citizen of such corporation,
ity or Town Council thereof, and shall be turned
a City or Town Council as a permanent record
n all convenient speed, on the completion of its

Duties of.

A. D. 1912.

work. No such Sewerage Commission shall expend more money in the enlarging, extending or establishing such system of sewerage than has been appropriated therefor according to law; and all payments for material furnished and work performed shall be made by the Treasurer of such City or Town Council on warrants issued by such Commission and approved by such City or Town Council. No member of any such Commission shall be permitted to enter into any contract with such Commission for furnishing materials or for the construction of any of the work of such sewerage system.

Condemnation proceedings by municipal authorities.

Sec. 2699. For the purpose of enlarging, extending or establishing a system of sewerage within and adjacent to its corporate limits, any municipal corporation shall have the right and power, by its City or Town Council, to condemn, take and use any land that it may deem necessary thereto, whether the same be situate within or without its corporate limits, or it may purchase or lease the same; and it may likewise condemn, purchase or lease any stream of running water for the purpose of emptying therein to the sewerage from its sewer pipes, conduits, drains or chambers; and for this purpose, when the owner or owners of land, or of any running stream of water, refuses or fails to sell or lease the same, such City or Town Council shall have the right to have the compensation therefor ascertained in the following manner: Such City or Town Council shall select one member of a Board of Arbitrators, the owner of the land or stream one member (and when the owner is a corporation, then its President or Secretary shall make the selection), and these two shall select a third, which shall compose said Board, and all of whom shall possess the qualifications of jurors in the Courts of Record in this State. Said Board shall fully inform itself with regard to all the facts relating to the controversy, and shall hear the parties thereto, in their own behalf, or by attorney, and shall then forthwith render its findings of the amount of compensation in writing, and file the same in the office of the Clerk of Court of General Sessions and Common Pleas in the County where the land is situate, who shall receive and record the same, and make therefor a charge of not exceeding two dollars. From the award so rendered it shall be

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either party to appeal to the first term of the next ensuing in the County, giving to the party ten days' notice of such intended appeal, and the grounds thereof; and upon the hearing of such appeal, judgment shall be ordered, in which the appellant shall be heard, and the question of compensation shall be submitted to a jury in open Court, whose verdict shall be final and conclusive, unless a new trial shall be granted by the Supreme Court. But in no case of appeal shall the progress of the work be stayed: *Provided*, That the party requiring the use of the property shall deposit with the clerk of the Court the amount of the award from the appeal is taken: *Provided*, That if any person shall refuse to select or secure some suitable person to act on behalf of the owner for a period of three days after receiving notice from the City or Town Council so to do, such City or Town Council shall have the right to request some disinterested person to select a member of the Board of Arbitrators and a downer, and on his doing so, these two shall select the third, and the said Board shall be thus constituted. In case the owner of any such land is legally disabled from acting for himself or herself, such City or Town Council may have a guardian *ad litem* appointed for the person in the same manner that guardians *ad litem* are appointed in actions in the Court of Common Pleas, who shall act for such person fully as he or she might if legally competent.

On the payment by the City or Town Council of the compensation thus ascertained, it shall have the right to enter upon and use such premises for all proper purposes connected with the enlarging, extending, and establishment of its system of sewerage, and for the flushing, protecting or otherwise keeping the same in a sanitary, safe or satisfactory condition.

Any municipal corporation in this State, for the purpose of enlarging, extending or establishing a system of sewerage as aforesaid, shall have the right to use any of the streets of such municipal corporation, and any of the bridges, roads and highways of the County in which the same are located for the purpose of constructing, operating, and protecting the same; but it shall restore all the same to as good a condition as they were in prior

Use of streets.

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Regulations
as to sewer-
age.

Cities and
towns may
furnish lights
and water be-
yond the city
limits.

1907, XXV,
625; 1904,
XXIV, 408.

thereto without any unnecessary delay and with the least possible inconvenience to the public. And it shall have the right to enact all necessary ordinances, rules and regulations consistent with law for the establishment, construction, maintenance, operation, protection, use, control and repairing its system of sewerage, both within and without corporate limits.

Sec. 2701. All cities and towns in this State owning water and light plants be, and are hereby, authorized and empowered, through the proper officials of the said city or town, to enter into contract with persons, firms or corporations without the incorporate limits but contiguous thereto, to furnish said persons, firm or corporation electric current or water from said water and light plant of said city, and to furnish the same upon such terms, rates and charges as may be fixed by the contract or agreement between the parties in this behalf, either for lighting or for manufacturing purposes, when in the judgment of said City or Town Council it is for the best interest of the municipality so to do.

That no such contract shall be for a longer period than two years, but may be renewed from time to time for a like period.

Election of
Commissioners of Public
Works; terms
of office, etc.

1904, XXIV,
408; 1907,
XXV, 625.

Sec. 2702. At such election for bonds, the elector shall vote for three citizens of such town or city, whose terms of office shall be respectively two, four and six years, and until the general election for municipal officers next following the expiration of the short term, and until their successors are elected and qualified. The classification above designated as to the term shall be ascertained by the Commissioners after election by lot. At each general election for municipal officers following the expiration of the term of the Commissioner holding the short term, and at every such election every two years thereafter, one such Commissioner shall be elected for a term of six years, and until his successor is elected and qualified. The officers so elected, and their successors in office, shall be known as the Commissioners of Public Works of such municipality, and by that name may sue and be sued in any of the Courts of this State. At the first meeting of the Commissioners after election, and after any election for full term, they shall organize by the

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one of their number as Chairman. The Clerk of the municipality shall act as Secretary of Commissioners. The Mayor and Aldermen of the city, and the Intendant and Wardens of a town, shall fill any vacancy occurring in said Commissioners by death, resignation or otherwise, by appointment for the unexpired term. Persons elected or appointed to such office shall qualify by taking the same oath as the election officers of the municipality.

The Mayor of the city, or the Intendant of the town, shall notify the persons so elected as members of the Board of Public Works of their election within ten days after the results of such election is declared: *Provided*, that there shall be no Board of Commissioners of Public Works in the city of Laurens and Abbeville and the town of Clinton, but all the duties, powers and responsibilities of the Board of Commissioners of Public Works are hereby devolved upon the City Council of Laurens and Abbeville and the city of Camden and the town of Clinton: *And provided, further*, That there shall be no Board of Commissioners of Public Works in the city of Chester, but all the duties, powers and responsibilities of the Board of Commissioners of Public Works are hereby devolved upon the City Council of the city of Chester. In the town of Gaffney, said Board of Public Works shall consist *ex officio* of the Mayor and Treasurer of the Town Council of Gaffney, who shall give bond for the faithful performance of the duties of their office in the sum of ten thousand dollars each.

3. Said Board of Commissioners of Public Works shall be vested with authority to build or contract for the construction of said water works and said electric light plant and to rate same, and shall have full control and management of same. They may supply and furnish water to the said cities and towns and also electric, gas or steam, and may require and exact payment of such rates and charges as they may establish for the use of said lights. They may sell and dispose of said bonds and the proceeds, or so much thereof as may be necessary towards the purchase of or payment for said plants:

That the said Board shall make a full statement of its doings to the City or Town Council at the end of each month of

Powers of
Commissioners.

Civ. '02, §
2010.

Report to
City or Town
Council.

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Concurrence
of Council.Municipal-
ties to pro-
vide drains
for surface
water.1902. XXIII,
1038.

their receipts and disbursements of all kinds during the preceding month. They shall have no power to incur any indebtedness without the concurrence of such Council.

Sec. 2704. Whenever within the boundaries of any municipality, it shall be necessary or desirable to carry off the surface water from any street, alley or other public thoroughfare, over the private lands property adjacent to adjoining such thoroughfare, upon demand from the owner or owners thereof, such municipality shall provide sufficient drainage for such water through open or covered drains except where the formation of the street renders it impracticable, along or under such streets, alleys or other thoroughfare in such manner as to prevent the passage of such water over such private lands or property: *Provided*, That if such drains cannot be had along or under such streets, alleys or other thoroughfare, then the municipal authorities shall have the power and authority to obtain under proper proceedings for condemnation as for highways or payment of damages to the land owner, a right of way through the lands of such land owner for the necessary drains for such drainage.

That if any municipal corporation in this State shall fail or refuse to carry out the provisions of this Section, any person injured thereby may have and maintain an action against such municipality for the actual damages sustained by such person.

Taxes there-
for; how
levied and col-
lected.Civ. '02, §
2011.

Sec. 2705. The said City or Town Council are hereby authorized to assess, levy and collect, in addition to the annual tax levied for other purposes, a sufficient annual tax from the taxable property of said cities or towns to meet the interest to become due upon said bonds, and also to raise the sum of at least one-fortieth part of the entire bonded debt as a sinking fund in aid of the retirement and payment of said bonds. Said sinking fund shall be under the control and management of the Board of Commissioners of Public Works, and shall be applied to the said bonds or invested to meet the payment of same when due.

Cities and
towns may
purchase
lands, etc.,
for certain
municipal
purposes.

Sec. 2706. The said cities and towns shall have the power and authority to purchase and hold suitable lands and water, and to erect such aqueducts, dams, canals, buildings, machine shops and other works, and to construct and lay

its, mains and pipes, as may be necessary to secure a supply of water and power for water works and electric light works. And said towns shall have power to erect poles and wires of the adjacent highways and in said cities and shall have the right to condemn any property the drainage from which would contaminate the supply of said city or town, and such streams, lakes may be required for the water supply of said city right of way to enable it to lay mains and pipes sewerage or drainage, and erect and operate said dams, canals, and water and electrical works, and lines on paying to the owner or owners thereof compensation for such property or rights of way to be determined in the same manner as provided by law for the condemnation of lands of way by railroad corporations.

7. Any municipal corporation in this State desiring to establish water works or to enlarge or extend the same, whether they own or operate the plant or not, shall have the right to condemn lands, water rights and water or any other property necessary for the purpose of building, maintaining, extending or operating water works, which are being used for supplying water to municipal corporations and to the citizens thereof: That proper compensation be first made to the owner thereof, such condemnation to be made in the same manner as condemnations are now made by railroad corporations.

Municipal corporations may condemn land for waterworks.

8. That any other corporation now engaged in the business of supplying water for fire, domestic purposes in this State, or which may intend to engage exclusively in the business of supplying water for such purposes, shall have the same rights and same compensation as are herein conferred upon municipal corporations.

And to protect water sheds.

Other companies shall have the same right.

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Damages may
be recovered.Land must
be necessary.Condemna-
tion to be
made in same
manner as for
railroads.To which
cities applica-
ble.Municipal
corporations
may own
lands for the
use of the
corporation.

Sec. 2709. When any lands are condemned by a municipal corporation for the use of a corporation other than itself, such other corporation shall pay all the costs and expenses incurred in such condemnation, together with all damages which may be assessed in favor of the landowner under such condemnation proceedings, as well as all damages that may be recovered against such municipality in any Court of competent jurisdiction by any one injured or damaged by such condemnation: *Provided, however,* That if in any case the ingress or egress from the lands of any person be cut off, said corporations shall open, construct and maintain convenient means of ingress and egress to the land so cut off: *Provided, further,* That no such condemnation shall be had for benefit of any corporation unless it is made to appear to the satisfaction of the Town or City Council of the municipal corporation that the land sought to be condemned is necessary for the proper use and maintenance of such water works or for the proper protection of the health of the citizens of such municipality, the Town or City Council of such municipality to determine the question as to whether such land is necessary for the proper use and maintenance of such water works or for the proper protection of the health of such municipality.

Sec. 2710. The condemnation therefor to be made in the same manner and same way as provided for railroad corporations, in Sections 2187 to 2199, inclusive, in Volume I. Code of Laws of 1902: *Provided,* The jury of condemnation shall have the power to give special damages to the owner of the property condemned, as well as actual damages.

Sec. 2711. The provisions of Sections 2707 to 2710, both inclusive, shall apply only to the cities of Charleston, Greenville and Spartanburg, and to other corporations engaged exclusively in supplying water to said cities and to the inhabitants thereof.

Sec. 2712. Any municipal corporation desiring to become the owner of any land, situate within the corporate limits of such municipal corporation, in this State, for the erection of a public building, for the use of the corporation, or the purpose of procuring a supply of water or establishing a sewerage system or other public works for the use of the corporation, shall have the right to pur-

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land from the owner or owners thereof, and pay
 me in such manner as said municipal corporation
 rmine.

13. In case the owner or owners of any land
 y a municipal corporation for the above purposes
 se to sell the same, it shall and may be lawful for
 icipal corporation to condemn said land in the
 ereinafter provided.

In case of
 refusal to sell
 the corpora-
 tion may con-
 demn.

14. In case any owner or owners of the lot or
 ired for the purposes aforesaid or shall demand
 be deemed by the said authorities an unreasonable
 n the said authorities shall nominate and appoint
 olders, resident in said city or town, who shall meet
 l number to be named on the part of the owner or
 o determine and fix upon the true and real value
 and, and any damages thereto by reason of the tak-
 id property, with full power in the Commissioners
 l as aforesaid, in case of disagreement, to call in
 : Commissioner. In determining the value of the
 aken, the Commissioners shall estimate alone the
 and value of the land so taken, and the special
 to the property which the owner may sustain by
 f the taking, but shall make no allowance to the
 on for the supposed benefits accruing to the owner
 roperty. And on the payment of the full value of
 l, and such special damages aforesaid, ascertained
 rmined on in the manner herein provided, the fee
 f the said lot or lands shall be vested in such city
 for the use of the public, and the said owner shall
 his deed, without warranty therefor, to said city

Valuation of
 land; how
 made.

15. In case any owner, or said corporation, shall
 isfied with the valuation of said lands, or such
 amages aforesaid, either party shall have the right
 l to the Circuit Court of the County where the land
 giving a notice in writing to the opposite party, or
 orneys, within ten days after written notice of the
 and assessment of damages, and at the next term
 ourt of Common Pleas for said County either party
 ve the right to move for a trial by a jury in the
 Court, and said case shall be tried, as near as may

Appeal may
 be made to
 Circuit Court.

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be, like other civil cases, the appellant being the actor. The verdict of said jury shall be final, unless a new trial is granted by the Circuit Judge for some reason now provided by law, and after final judgment in such case, the fee simple of said land shall be vested in said city or town upon the payment, or tender of payment, of the amount of such valuation and damages, and the said owner shall thereupon execute his deed in fee simple, without warranty, for said land so condemned.

Clerk of
Court may
execute deed.

Sec. 2716. In all cases where, under the last preceding Section, the owner is required to execute his deed to said city or town, and shall fail or neglect so to do, then the Clerk of the Court of Common Pleas for the County in which said land is situated shall, on behalf of said owner, execute a deed, without warranty, for said land to said city or town, which said deed shall as effectively bind said owner and his and her heirs and assigns as though executed by said owner. And said deed, and all proceedings had in such matter, shall be recorded by the Register of Meuse Conveyances, or the Clerk of the Court, in the books wherein real estate deeds are by law required to be recorded. But this shall not require the proceedings of the Court to be recorded, but such proceedings shall be recorded as are all other civil cases.

Land owner
to be sum-
moned.

Sec. 2717. The Mayor or Intendant of such city or town shall call a meeting of the said owner or owners of any property so required at some proper time and place by the service of a notice, as summons are now required to be served, for the purpose of appointing said Commissioners; and in case the owner or owners refuse to attend said meeting, or neglect or fail to appoint said Commissioners, then the Commissioners appointed by the city or town on its behalf, or a majority of them, shall be, and they are hereby, authorized to proceed to discharge the duties herein prescribed, and their judgment in the matter shall be final and conclusive, except in case of appeal as herein prescribed.

Guardian ad
item in case
of person un-
der disability.

Sec. 2718. When the owner, or any one of several owners, of the land is an infant, or *non compos mentis*, the required notice shall be served personally upon the trustee, guardian or committee of such person, and personally on such owner, and if there be no such trustee, guardian or

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in the State, the Clerk of the Court of Common Pleas shall have the power to appoint for such person a guardian *ad litem*, upon whom the service shall be made. The guardian shall represent the interest of such infant, or person of unsound mind; said appointment shall be made by the Court in the manner now provided by law for the appointment of guardians *ad litem* in civil actions. If any owner of the land shall reside beyond this State, or his or her place of residence be unknown, the service shall be made on the agent of such owner in charge of said lands, or if there be no such agent, then such owner shall be served by publication of the notice, as is now provided for publishing in civil cases.

19. When the Commissioners shall have assessed the land, and damages therefor, the proceedings shall not be suspended by an appeal, but upon depositing the amount awarded with the Clerk of the Court of Common Pleas of the County in which the land lies, and filing a good and sufficient bond to pay whatever damages the owner of the land may suffer by reason of the taking of such land, for the purpose aforesaid, upon paying said money and giving the bond herein provided for.

Proceedings
not to be sus-
pended by an
appeal.

20. The aforesaid Commissioners, before proceeding to act in the premises, shall severally make oath before the Clerk of the Court, or some other officer authorized to administer an oath, that they will fairly, faithfully and impartially discharge the duties herein required of them.

Oath of Com-
missioners.

21. The powers conferred by Sections 2696 to 2699, inclusive, upon the cities and towns of the State are, and shall be taken, deemed and construed to be, in addition to the powers now enjoyed by said cities and towns.

Powers to
be in addition
to powers now
enjoyed.

Civ. '02, §
2013.

22. All towns in this State may own and possess real, personal or mixed property, not exceeding in value ten per centum of the assessed value of the taxable property in said towns, notwithstanding any special provision in their respective charters to the contrary.

Power to
hold property.

Civ. '02, §
2014.

to take land by devise at common law.—*McIntosh v. City of Charleston*, 45 S. C., 584; 23 S. E., 943.

23. Any city, town or township, or other municipality, for the purpose of refunding or paying

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Cities, towns
and other mu-
nicipal au-
thorities au-
thorized to is-
sue negotia-
ble bonds for
certain pur-
poses.

Civ. '02, §
2015. 1908,
XXV, 1027.

the whole or any part of its bonded indebtedness, whether the same has matured or not, and any unpaid past interest thereon, shall be, and is hereby, authorized and empowered to issue its negotiable coupon bonds from time to time, and in such amounts as shall be proper, and to use and dispose of the same, either by sale or exchange, for the purposes aforesaid. Said bonds issued under the provisions of this Article shall be payable in not more than fifty years from their date, and shall be in sums of one hundred dollars, five hundred dollars, or one thousand dollars, each, bearing interest at such rate as shall be directed by the City Council or Town Council, or other corporate authority, of said cities, towns, Townships, or other municipal corporation, respectively; said interest to be paid semi-annually: *Provided*, Said rate of interest shall not exceed the rate of interest borne by the previous issue of bonds: except that in cases where the City Council, Town Council, or other corporate authority, of said cities, towns, Townships, or other municipal corporations, respectively, shall be able to retire such previous issue of bonds in advance of the maturity thereof, at or below their par value, the new bonds issued for such purpose may be made to bear a rate of interest in excess of the rate borne by the original issue of bonds by one per cent. per annum, in the discretion of the Mayor or Aldermen of such city or town, or other corporate authority, of said cities, towns, Townships, or other municipal corporations, respectively; but in no case shall the amount of interest to be paid exceed the aggregate amount of interest payable upon the bonds of the previous issue so redeemed, retired, taken up and refunded or paid: *And, provided, further*, That the aggregate amount of the principal of the bonds at any time issued under this Article by any city, town, Township, or other municipal corporation, shall not exceed the aggregate amount of said bonded indebtedness and past due interest thereon, to refund or pay which said bonds shall be issued under this Article: *And, provided, further*, That the principal and interest shall be paid in any legal tender money of the United States.

Bonds, how
issued.

Civ. '02, §
2016.

Sec. 2724. The bonds authorized to be issued under Section 2723 may be issued without submitting the question as to the creation of such bonded indebtedness to the qualified

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of such city, town or other municipal corporation which bonds under said Section, and all provisions in ter of any city, town or other municipal corpora- niring such submission to the qualified voters e, and the same are hereby, repealed.

25. The City Council or Town Council or other e authorities of said cities, towns, Townships, or nicipal corporations, respectively, be, and they oy, authorized and empowered to levy an annual ll taxable property of said cities, towns or other l corporations, respectively, to provide for the of the principal and interest of the said bonds as shall become due.

Tax for the
payment of.
Civ. '02, §
2017.

26. The City Council or Town Council or other e authorities of such city or town, township or nicipal corporation, respectively, who may issue der the terms of this Article shall have authority le in any ordinance adopted requiring or permitting ag of said bonds that the coupons and principal on ds, or either, shall be receivable for taxes due to town, township or other municipal corporation. ely, issuing the said bonds during the year in ey mature, and shall further have authority to oy such ordinance that in case of the neglect or of the City Council or Town Council or other l authority, respectively, to levy the taxes required Article to be levied to provide for the payment of ipal and interest of said bond, then the holder or of any of the said bonds or coupons may enforce y by mandamus in any of the Courts of this State.

Powers of
City or Town
Council to
make the cou-
pons receiva-
ble for taxes.
Civ. '02, §
2018.

27. That for the purpose of issuing the bonds pro- r in Sections 2723, 2724, 2725, and 2726, the County of Commissioners of the Counties of the State, or er officers as may hereafter be charged with the ance of the same duty, shall be, and they are hereby to be, the proper corporate authority for the ps of their respective Counties to issue such bonds: at in cases where an incorporated city or town is Township, the said County Board of Commission- ther officer hereafter charged with the performance ame duty, and the City Council or Town Council,

Corporate au-
thorities to is-
sue bonds.
1902, XXIII,
1016.

A. D. 1912.

as the case may be, shall, and they are hereby declared to be, the proper corporate authority of the Township to issue such bonds.

Provisions
made to ap-
ply to Coun-
ties also.

Civ. '02, §
2020.

Sec. 2728. All the provisions of Sections 2723, 2724, 2725, and 2726 be, and the same are hereby, extended to and made applicable to Counties, and to the County Boards of Commissioners thereof, the same as they apply to municipal corporations and to the authorities thereof: *Provided*, That when County bonds are issued under the provisions hereof after the issues shall have been authorized by a resolution of the County Board of Commissioners, entered in the minutes of said Board, it shall not be necessary for the members of said Board to sign said bonds, but the signature of the County Supervisor thereto shall be sufficient.

School Dis-
tricts includ-
ed.

Sec. 2729. That the words "other municipal corporations" used in Section 2723 shall be held and deemed to include any School District of this State, and that the Trustees of the School Districts shall be the corporate agents thereof for the purposes of said Section and of Sections 2724, 2725, 2726, 2727 and 2728.

Not to af-
fect certain
County bonds.

1902, XXIII,
1046.

Sec. 2730. That the provisions of Sections 2724 to 2728, both inclusive, shall in no wise affect the Acts heretofore passed, authorizing and empowering the several Counties of the State, or any of them, to issue bonds for the purpose of refunding or paying in whole or in part, any indebtedness, whether bonded or otherwise of any of the said Counties.

Special elec-
tions as to
issue of mu-
nicipal bonds
for certain
purposes; how
and when is-
sued.

1908, XXV,
1038.

Sec. 2731. It shall be the duty of the municipal authorities of any incorporated city or town of this State, upon the petition of a majority of the freeholders of said city or town, as shown by its tax books, to order a special election in any such city or town for the purpose of issuing bonds for the purchasing, repairing or improving of city or town hall or park or grounds therefor, markets and guardhouse, enlarging, extending or establishing electric light plants or other lights, or waterworks or sewerage, erecting, repairing or altering school buildings, fire protection purposes, improvement of streets and sidewalks, or any corporate purpose set forth in said petition: *Provided*, That the aggregate bonded indebtedness of any city or town shall never exceed eight per centum of the assessed value of the taxable prop-

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ein. And any bonds heretofore voted upon and any incorporated city or town of this State since the adoption of the Constitution of the year 1895, under the provisions of the Article herein recited, are hereby validly made legal for any of the purposes herein above stated: *Provided, further,* That the limitation imposed by this Section shall not apply to bonded indebtedness incurred by the cities of Columbia, Rock Hill, Charleston, and Bennettsville, where the proceeds of said bonds are applied solely for the purchase, establishment, maintenance or increase of waterworks plants, or sewerage and by the city of Georgetown, when the proceeds of said bonds are applied solely for the purchase, establishment, maintenance or increase of waterworks plant or system, gas and electric light plant, where the proceeds arising from the operation of such plants or systems shall be devoted solely and exclusively to the maintaining and operating of the same, and where the question of incurring such indebtedness is submitted to the freeholders and qualified voters of such municipality, as provided by the Constitution, upon the question of other bonded indebtedness: *Provided, further,* That the limitation imposed by this Section shall not apply to bonded indebtedness incurred by the city of Greenville, but said city of Greenville may increase its bonded indebtedness in the manner provided in this Section, to an amount not exceeding fifteen per cent of the value of the taxable property therein, where the proceeds of said bonds are applied solely to the payment of past indebtedness, to expenses and liabilities incurred, or to be incurred, in the improvement of streets, sidewalks, and for providing sewerage for said city, or in part thereof, for purchasing, establishing, owning and maintaining waterworks or electric light plants: *Provided,* That the limitation imposed by this Section shall not apply to the bonded indebtedness incurred by the city of Bennettsville, where the proceeds of said bonds are applied solely for the purchase, establishment, maintenance or increase of waterworks plant or the sewerage system, where the question of increasing such indebtedness is, when submitted, been, submitted to the freeholders and qualified

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voters of such municipality, as provided in the Constitution, upon the question of other bonded indebtedness.

Bonds sustained under this Act.—State *ex rel.* McWhirter v. Evans, 47 S. C., 418; 25 S. E., 216. The effect of the Constitutional amendment of 1901, to Const. Art. 10, Sec. 5, considered in Bray v. Malloy, 62 S. C., 39 S. E.

Who entitled
to vote.

Civ. '02, §
2022.

Sec. 2732. Such persons shall be entitled to vote at any such special election as are qualified under Section 13. Article II of the Constitution of 1895 of this State; and should a majority of those voting in said election vote in favor of said bond issue then the municipal authorities of said city or town shall be authorized to issue said bonds, which shall be of such denomination and run for such length of time and bear such rate of interest, not exceeding seven per centum per annum, as the said municipal authorities shall prescribe.

Municipal
corporations
may issue
certificates of
stock.

1908, XXV,
1025.

Sec. 2733. That the city authorities of any incorporated city or town of this State shall be, and are hereby, authorized and empowered to exchange certificates of stock for any coupon bonds which have heretofore been issued by said cities or towns, or which they may hereafter issue, by virtue of Sections 2696, 2723, 2731 and 2732, for the like amount on cancellation of said bonds with like amount, rate of interest, time of maturity with legal validity and liability when issued by said cities and towns, as said coupon bonds, and said cities and towns be authorized and empowered to issue certificates of stock when desired by the purchasers of coupon bonds, in lieu of said coupon bonds, and register all such certificates of stock in the names of the holders in a book or books kept for the purpose, and on such terms as said corporate authorities may require, not inconsistent with law.

Causes of ac-
tion for dam-
ages from de-
fects in the
streets, mis-
management,
etc.

Civ. '02, §
2023.

Sec. 2734. Any person who shall receive bodily injury, or damages in his person or property, through a defect in any street, causeway, bridge or public way, or by reason of defect or mismanagement of anything under control of the corporation within the limits of any town or city, may recover, in an action against the same, the amount of actual damages sustained by him by reason thereof. If any such defect in a street, causeway or bridge existed before such injury or damage occurred, such damage shall not be recovered by the person so injured if his load exceed the

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weight: *Provided*, The said corporation shall not
 unless such defect was occasioned by its neglect or
 ment: *Provided, further*, Such person has not
 brought about any such injury or damage by his
 negligent act or negligently contributed thereto.

Restrictions.

Proviso.

Contributory
negligence.

as prior to the amendment of 1901, XXIII., 645, similar to G.
 . 1169; Sec. 1814, of this Code, in reference to the liability of
 far as injuries from defects in streets are concerned; but
 scope, in that it includes not only injuries arising from defects
 , but also injuries arising from the mismanagement of anything
 of the corporation, as of a steam roller.—*Barksdale v. Laur-*
413; 36 S. E., 66; Dunn v. Barnwell, 43 S. C., 398; 21 S. E.,
cases cited under Sec. 1814.

5. Any municipal corporation of this State hav-
 to construct and operate a plant for water supply,
 ividual or private corporation contemplating the
 pipes for supplying water to municipal corpora-

Municipal
corporations
or individuals
may lay cer-
tain pipes for
water supply.1903, XXIV,
77.

a community of citizens, shall have authority to

pipes for the purpose of carrying water on or
 bed of any non-tidal navigable stream of this

l, with the approval of the County authorities

ounty, on or under any highway of such County;

Approval of
County au-
thorities.

to be so laid as not to interfere with the free use
 ghway or the navigation of such streams by boats
 ne extent that they would be navigable if such
 e not laid.

be the duty of every such municipality, private
 n or person, having laid such pipes, to keep the
 pair.

To keep same
in good re-
pair.

6. Any town or city may subscribe to the main-
 f a free public library within its limits, to be

Any city or
town may sub-
scribe to a
free public li-
brary.

under such rules and regulations as may be pre-

the Board of Aldermen or Council of such city

1903, XXIV,
77.

any such subscription can be made, the question
 g the same, with the amount and terms thereof,
 submitted to the qualified voters of such city or
 resolution of the Board of Aldermen or Council
 petition of a majority of the freeholders thereof.

Question
shall be sub-
mitted to vot-
ers.

7. The Board of Aldermen or Council shall pro-
 id resolution for the conduct of such election, after

Conduct and
notice of elec-
tion.

o weeks' notice thereof in some newspaper pub-
 such city or town, of the time, place, object and

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Form of ballot.

Returns.

Time between election.

Municipal corporations may own and operate rock quarries.

1903, XXIV, 78.

Police jurisdiction.

Cities and towns may pass ordinances for vaccination.

1905, XXIV, 889.

Board of Health to have general supervision.

managers of the election (said managers to be named by them), and shall furnish the ballots to be voted, which shall be of the uniform size, and have plainly printed thereon the following: "For subscription of \$ for library for years—Yes;" or "For subscription of \$ for library for years—No."

The Board of Aldermen or Council shall receive the returns and declare the results, and by resolution make the subscription or enter their refusal of record.

Elections for such purpose shall not be held within two years of each other.

Sec. 2738. All incorporated towns and cities are hereby authorized and empowered, in addition to the powers now conferred upon them by law, to own and operate rock quarries, for the purpose of improving roads, highways and streets within their respective jurisdictions, and to work convicts in operating said rock quarries.

The police jurisdiction and authority of such towns and cities shall extend over all prisoners in transit between said rock quarries and said cities and towns.

Sec. 2739. The City or Town Council of every incorporated city or town in this State may provide by ordinance for the vaccination and revaccination with fresh bovine virus under the direction of the health authorities of said cities or towns, or of some competent physician appointed for that purpose, of all the citizens and residents of such cities and towns, excepting such persons as obtained the certificate of a reputable physician that vaccination would be dangerous to health. Such ordinances shall establish the periods of time, satisfactory to the State Board of Health, within which vaccination and revaccination shall be required; shall provide for vaccination and revaccination of indigent and pauper individuals at the expense of the city or town; and shall establish and provide penalties by quarantine and otherwise of such persons as are convicted of neglect or refusal to obey the provisions of such ordinance.

Sec. 2740. The State Board of Health shall have general direction and supervision of vaccination and revaccination in all cities and towns, and shall in case of threatened epidemic of smallpox in any such community, and of insufficient ordinances therein, request the passage of the City or

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cil of a new ordinance framed in accordance provisions of Section 2739. The State Board shall have full and absolute control in mat-ination and revaccination of all persons within who do not reside within the limits or jurisdic-incorporated city or town, and shall promulgate egulations which shall have the force and effect vaccination and revaccination of such persons supervision and direction of agents appointed Board, and which shall contain provisions simi-e of Section 2739 applying to ordinances, but ements may be modified by the State Board a case of sparsely settled communities so as only uring apprehended danger of an epidemic of nd the necessary expense of such vaccination or n shall be paid by the County Commissioners of within which the persons treated reside, and a ificate of the services performed endorsed and the State Board of Health shall be *prima facie* the existence and value of such services. The of Health shall at all times keep in stock a sup-h bovine virus and supply the same to cities, ndividuals without cost, that the charge for each under this Section shall not exceed ten cents.

If the City or Town Council of any incor- or town shall neglect or refuse to pass an n accordance with the provisions of Section ll be the duty of the State Board of Health ate rules and regulations for the vaccina-citizens and residents of such incorporated city ich rules and regulations shall have the force of e, and the State Board of Health shall have the it is hereby made its duty, to enforce obedience es and regulations by the promulgation and of proper quarantine regulations whenever the shall deem it necessary for the preservation of ealth from possible danger of a threatened epi-allpox, at the cost and expense of such incor- or town. In case such incorporated city or efuse or neglect to reimburse the State Board of all of the costs, charges and expenses incurred

If cities neg-lect so to do, the Board of Health may pass rules.

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under this Section, including the cost of any necessary quarantine, then the State Board of Health is hereby empowered to collect the same by suit in any Court of the State having jurisdiction, from such incorporated city or town, and a statement of such costs and expenses by the State Board of Health shall be *prima facie* evidence of the amount of said costs and expenses.

Pupils to be vaccinated.

Sec. 2742. No Superintendent of any institution of learning, and no School Board, or Principal of any school in this State shall admit as a pupil any child or person who cannot produce satisfactory evidence of having been vaccinated so often as the ordinance of the city or town in which the school is located, or if not located within the city or town, so often as the rules and regulations of the State Board of Health may direct.

Parents, etc., to see that children are vaccinated.

Sec. 2743. It is hereby made the duty of every parent, guardian or other person, charged with the care of or responsibility for any child, to see that such child is vaccinated so often as may be directed by ordinance of the incorporated city or town in which such child resides, or if not a resident of an incorporated city or town, so often as the rules and regulations of the State Board of Health may direct.

For violation of law in regard to vaccination, see Criminal Code.

Police of any city or town may arrest within one mile of corporate limits.

1908, XXV, 1089.

Sec. 2744. The police authorities of all towns and cities of this State are hereby authorized and empowered to make arrests of all offenders against the municipal ordinances and statutes of this State committed within the corporate limits at any place within a radius of one mile of the corporate limits, with or without a warrant, when such police authorities are in pursuit of such offender.

Cities and towns may require certain articles weighed on public scales.

1910, XXVI, 620.

Sec. 2745. The municipal authorities of cities and towns of this State be, and they are hereby, empowered to require all dealers and sellers of coal, coke, unbaled hay, cattle, cotton seed, or other articles of like nature and character sold in bulk, by weight, and sold within the limits of any city or town to have the same weighed upon the public scales within such city or town, and to impose a charge therefor of not more than ten cents for each draft, one-half to be paid by the seller, and one-half to be paid by the buyer. Said municipal authorities may enforce the provisions of

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n by such fine and imprisonment as may now or be prescribed by law for the violation of the of the city or town: *Provided*, That the provisions tion shall apply only to Chester County.

6. Whenever the Mayor and Aldermen of any Intendant and Wardens of any town in this State it expedient to widen, open, lay out, extend or ny street, alley, road, court or lane, they shall r to purchase the lot, lots or parts of lots of land for such street, alley, lane, road or court, and the of said land shall be vested in said city or town of the public from the day of the deed of sale.

Municipal au-
thorities may
purchase land
for streets.

Civ. '02, §
1396.
1905, XXIV,
964.

ers v. Taylor, 2 Bay, 282; McKenna v. Commissioners, Harp.,
sioners v. Durant, 11 Rich., 440; Pope v. Commissioners, 12

7. In case any owner or owners of said lot or id as aforesaid shall refuse to sell the same, or and what may be deemed by the said authorities nable price, then the said authorities shall nomi- appoint six freeholders, resident in said city or shall meet an equal number to be named and on the part of the owner or owners, to determine on the true and real value of such land, and any hereto, by reason of the opening, widening or of such highway; due regard being had, in assess- damages, to any increased value of such lot, lots of lots, by reason of the opening, widening or of such highway; with full power in the Commis- pointed as aforesaid, in case of disagreement, to e other Commissioner. And on the payment of alue of said lot or lots, or parts of lots, and such mages aforesaid, ascertained and determined on iner above provided, the fee simple of the said lot, rts of lots shall be vested in such city or town for the public, and the said owner shall execute his out warranty, therefor according to said city or

Proceedings
in case of re-
fusal to sell
or unreasona-
ble price;
Commission-
ers: how ap-
pointed; du-
ties of; deed
to be execu-
ted.

Civ. '02, §
1397.

any owner shall be dissatisfied with the valuation or lots, or such special damages aforesaid, it shall be lawful for such owner to appeal from the same ng notice of such appeal to the Mayor and Alder-

Appeal by
owner; pro-
ceedings on.

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men, or Intendant and Wardens, of such city or town within ten days from the time of his receiving a notification of such valuation and assessment of damages, to the Court of Common Pleas for the County in which said land may be, at the next session thereafter; and the said Court shall order a new valuation and assessment of damages, or either, in such particular case, to be made by a jury, who shall be charged therewith in the same or some subsequent term, and their verdict shall be final and conclusive unless a new trial be granted; and after final judgment in such case the fee simple of said lot or lots, or parts of lots, shall be vested in such city or town, upon the payment, or tender of payment, of the amount of such valuation and damages, and the said owner shall thereupon execute his quit-claim deed therefor accordingly to said city or town.

Clerk of Court to execute deed when owner fails; deeds and proceedings to be recorded.

Civ. '02, § 1398.

Sec. 2748. In all cases where under the last preceding Section the owner is required to execute his deed to said city or town, and shall fail or neglect so to do, then the Clerk of the Court of Common Pleas for the County in which said city or town is situated shall on behalf of said owner execute a deed without warranty therefor to said city or town, which said deed shall as affectually bind said owner and his or her heirs and assigns as though executed by said owner. And said deed and all proceedings had in such matter, except proceedings in Court, shall be recorded by the Register of Mesne Conveyances of said County in the books wherein conveyances of real estate in said County are required by law to be recorded.

Meeting of owners to appoint Commissioners; how called; failure to appoint; effect of.

Civ. '02, § 1399.

Sec. 2749. The Mayor or Intendant of such city or town shall call a meeting of the said owners at some proper time and place by the service of a notice, as summons are now required by law to be served, and the owners attending such meeting or their proxies, or a majority of them, shall appoint the Commissioners in their behalf mentioned in Section 2747; and in case the owners at said meeting or adjournment thereof, within ten days shall neglect or refuse to appoint Commissioners, then the Commissioners appointed by said city or town on their behalf, or a majority of them, shall be, and they are hereby, authorized to proceed to the discharge of the duties herein prescribed, and their judgment in the

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ll be final and conclusive, except in the case of above prescribed.

. When the owner, or any one of several owners, is an infant or *non compos mentis*, the required notice, where owners are infants, lunatics, or non-residents. be served personally upon the trustee, guardian, or committee of such person, and personally on such owner; if there be no such trustee, guardian or committee, the Court of Common Pleas shall have power, and is authorized, to appoint for such person a guardian upon whom the service shall be made, and who shall represent the interest of such infant or person *non compos mentis*. Said Clerk shall pursue in all respects the provisions provided by law for the appointment of guardians for infants and persons *non compos mentis*. If any owner or his lands shall reside beyond the State, or his or her residence be unknown, the service shall be made upon the agent of such owner in charge of such land, or if there be no such agent, then such owner shall be served by publication as in civil actions.

. The aforesaid Commissioners, before proceeding on the premises, shall severally make oath, before the Clerk of the Court, authorized by law to administer oaths, that they will faithfully and impartially discharge the duties required of them.

. Cities of over forty thousand (40,000) inhabitants and they are hereby, authorized to require the payment of such sum or sums of money, not exceeding as much as \$2,500 for licenses. Cities of 40,000 inhabitants authorized to require as much as \$2,500 for licenses. judgment be just and wise, by any person or corporation engaged, or intended to engage, in any business or profession, in whole or in part, within the limits of said cities, except those engaged in the profession of teachers and ministers of the Gospel. That whenever the amount of the license in any case exceed one thousand (\$1,000) dollars, the assent of two-thirds of the whole Council and Mayor shall be necessary in the passage of any ordinance requiring

Oath of Commissioners.

Civ. '02, § 1401.

Cities of 40,000 inhabitants authorized to require as much as \$2,500 for licenses.

1904, XXIV, 396.

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ARTICLE VIII.

COMMISSION FORM OF GOVERNMENT FOR CITIES OF MORE THAN TWENTY THOUSAND INHABITANTS AND LESS THAN FIFTY THOUSAND INHABITANTS.

SEC.

2753. Certain cities may adopt commission form of government.

2754. Election thereof.

2755. Ballots; declaring result; who entitled to vote.

2756. Election for mayor and councilmen.

2757. Mayor and councilmen; terms of office.

2758. Primary election; how conducted.

2759. Expenses of election.

2760. City Council; quorum; record of votes.

2761. Powers of Council.

2762. Five departments created; powers of Council; salaries.

2763. Ordinances; how passed; franchises.

SEC.

2764. How mayor and councilmen may be removed from office.

2765. Ordinances may be proposed by petition.

2766. Ordinances may be suspended.

2767. Civil Service Commissioners; examinations; removal from office.

2768. City attorney.

2769. Oath of office; how publication in newspapers made.

2770. Board of Commissioners of Election.

2771. Duties of Board; election; how conducted.

2772. Article to be liberally construed.

2773. How form of government may be abandoned.

Certain cities may adopt form of government.

Section 2753. Any city which, by the last preceding United States census heretofore or hereafter made and published, may have more than twenty thousand inhabitants and less than fifty thousand inhabitants, may adopt the form of government provided for in this Article and become organized as a city under the provisions hereof, retaining and exercising all the rights and powers, and remaining subject to all the duties and obligations heretofore otherwise granted or imposed by law not herein repealed specifically or by necessary implication.

Adoption of form of government to be submitted to an election.

Sec. 2754. Upon the petition of registered electors, qualified to vote in such city, equal in number to twenty-five per centum of the votes cast for all candidates for Mayor at the last preceding city election of any such city, showing the residence and occupation of each petitioner, and verified as hereinafter required for other petitions, the Mayor shall, by proclamation, submit to a vote of the qualified registered electors of said city the question of adopting the form of government herein and organizing as a city under this Article at a special election to be held at a time specified in said

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ion, not later than one month and not earlier than after said petition is filed. If the plan of government provided for be not adopted by the majority at the said special election the question of adoption shall not be resubmitted to the voters of said adoption within two years thereafter, but at the end of two years the same question may be resubmitted upon the presentation of a petition as hereinabove for. The question shall be submitted by the Mayor in proclamation in the following form, to wit: "Shall the city of (name of city) adopt the form of government provided in Article VIII, Chapter XLIX, of the Code of Laws of South Carolina, (cities of more than twenty thousand inhabitants and less than fifty thousand inhabitants.)"

Form of
proclamation.

55. At such election there shall be provided by the Board of Commissioners of Elections ballots, upon which shall be written, "Shall the city of (name of city) adopt the form of government provided in Article VIII, Chapter XLIX, of the Code of Laws of South Carolina for cities of more than twenty thousand inhabitants and less than fifty thousand inhabitants) Yes, No (erase one word)" Each qualified registered elector shall be allowed to cast one ballot; the said election being conducted and the result declared in the same manner as provided by law in respect to municipal elections except as hereinafter provided. If the majority of the ballots cast shall be "Yes" (the word "No" being erased), the Board of Commissioners of Elections shall declare that the city has adopted the form of government provided for. If there be not a majority of the ballots with "Yes" thereon and the word "No" erased, the Board of Commissioners of Elections shall declare that the form of government has been rejected. Immediately after the result of said election is declared, if it be in favor of the adoption of the said form of government, the Board shall forthwith file with the Secretary of State a certificate stating the result of said vote, which certificate shall be recorded in the office of the Secretary of State, and there shall be a sufficient record and notice that the said city is now operating under the said form of government: *and, however,* That the Mayor and Council and other

Election;
ballots; de-
claring result.

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Electors entitled to vote.

officers then in office, shall continue and remain until their successors shall be elected and shall qualify as hereinafter provided; and all ordinances, resolutions, or other provisions theretofore of force, and not inconsistent with the provisions of this Article, shall remain until altered or repealed by the Council elected as hereinafter provided. For the election on the adoption of this form of government the registered electors entitled to vote shall be those on the latest list that may have been registered for a municipal election, and if such registration be then in progress it shall be continued with all dispatch every day up through the third day preceding the special election herein provided for, and on such day shall be closed until after the result of the election is declared, and if the result of the election be in favor of this form of government, then registration for any and every election thereafter shall be made by the Board of Commissioners of Elections herein provided for, with the requirements herein provided.

Election for Mayor and Councilmen.

Sec. 2756. Immediately after the filing of said certificate in the office of the Secretary of State, the Mayor shall by proclamation published continuously in the daily newspapers of said city, up to the day of the election, order a special election for one Mayor and four Councilmen, said election to be held not earlier than one month and not later than six weeks after the issuing of said proclamation, the Mayor and four Councilmen to be voted for at large, said election to be governed by the provisions hereinafter made with reference to regular elections for Mayor and Councilmen in such city or as otherwise provided for by law: *Provided*, That the Board of Commissioners of Elections shall provide the ballots and shall put thereon the names of all candidates, of whom notice must have been given for at least two days: *Provided, further*, That no ballot shall be counted for any candidate for Councilman unless it be for the full number of Councilmen to be elected, and this rule shall apply to every election for Councilmen.

Mayor and Councilmen; terms of office of.

Sec. 2757. In every such city there shall be a Mayor and four Councilmen elected for the term of four years: *Provided*, That of the four Councilmen elected at the first election, two shall serve for four years and two for only two years; and immediately after the said first election, the

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councilmen therein elected shall appear before the Commissioners of Elections, hereinafter provided in the presence of, and under the direction of, the Commissioners, and in public, determine by lot the term for which each shall serve, whether two or four years. And the said Board of Commissioners of Elections shall notify to the Mayor the term of office of each Councilman determined by lot. And, thereafter, every two years from the time of the first election, an election shall be held for two Councilmen, and every four years from the time of the first election an election shall be had for a Mayor and four Councilmen, and the said Mayor and four Councilmen shall constitute the City Council of said city. If any vacancy occur in the City Council, the remaining members, by a majority vote thereof, shall appoint a person to serve during the unexpired term.

3. There shall be no party primary nominations for any person as a candidate for Mayor or Councilman, and the said party primary election be conducted and the rules and regulations for suffrage therein be enforced as herein provided. Primary elections, how conducted.

The primary election of any party for nomination for Mayor and Councilmen shall be held on the second Tuesday preceding the municipal election, and shall be conducted by the duly appointed Board of Commissioners of Elections and Board of Managers of Elections for the municipal election, who shall be paid as for the holding of a municipal election and shall conduct the primary election at the same places and in the same manner and under the enforcement of the same requirements of registration and suffrage as in the municipal election, having a separate ballot for each organized political party in said city, and the violation of the law governing the same shall be punished by the same punishment as in violation of the law governing other elections: *Provided, however,* That no person shall be allowed to vote in any party primary election unless he be a member of said party and make oath to abide by the rules of said party: *Provided,* That no primary election shall be held for any city or town unless the chief officer, or officers in its city or town shall notify the Mayor and the Chairman of the Board of Commissioners of Elections for the municipal

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election at least five days before the time for the holding of the party primary election that the said political party desires a primary election, and at such primary election three members of such political party, duly appointed for the purpose by the proper officers of the party, shall have the right to be present at each polling precinct and advise the Managers if any person offering to vote in said party primary be not a member of said party and file protest as ground for legal contest in case such person be allowed to vote by the legal Managers. No ballot cast in said primary election shall be counted for any person who shall not have filed with the Chairman of the Board of Commissioners of Elections the pledge as to corrupt practices and the itemized statements as to expenditures, as provided in an Act making certain offences in primary elections misdemeanors and prescribing penalties therefor, approved March 6, 1905, Volume XXIV, of the Statutes, at page 949. The Board of Commissioners of Elections shall cause the names of all candidates in the primary election, classed according to their party affiliation, to be published in the daily newspapers of the city from the time that they have become qualified as candidates up to and including the day of the primary election; and the said Board shall provide the printed ballots to be used in the said party primary elections, the names of candidates for Mayor and, also separately, the names of the candidates for Councilmen, arranged alphabetically; the ballots in each case to bear the words "Vote for (the number to be elected)." The candidate receiving the largest majority vote shall be declared elected. In case a primary election do not result in a majority and larger vote for the number of persons to be elected in the regular municipal election, a second primary shall be had on the seventh day after the first primary, in which second primary the ballot shall contain, for each position for which choice is to be made, the names of two persons,—those receiving the highest vote at the preceding primary election.

Penalty for serving candidate for consideration, see Criminal Code.

Expenses of election.

Sec. 2759. The expenses of each and every election provided for in this Article, including advertisement, provision of ballots and any other item, shall be paid out of the City

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, upon the warrant of the Chairman of the Board of Commissioners of Elections.

60. The Mayor and Councilmen chosen as herein shall constitute the City Council of such city, and them shall have the right to vote on all questions before the Council, three of them constituting a quorum, and the affirmative vote of three members of said Council shall be necessary to adopt any motion or pass any other than with reference to meetings and adjournment. Upon every vote, the yeas and nays shall be called and recorded, and every ordinance or resolution shall be in writing and read before the vote is taken thereon, and every ordinance or resolution passed by Council shall be signed by three members and be recorded before the same shall be in force. The Mayor, or, in his absence, one of the Councilmen chosen as Mayor *pro tem.*, shall preside at all meetings of the Council, but shall have no power to veto any

City Council;
quorum;
record of
votes.

61. The Council shall have, possess and exercise executive, legislative and judicial powers and duties conferred upon such city, or theretofore belonging to it, with power to establish such subordinate officers as they may deem proper and assign to them appropriate duties, subject to the approval of the Mayor. Each member of the Council shall give to the Mayor his office all the time that may be needed for the efficient conduct of the affairs of the city.

Powers of
Council.

62. The executive and administrative powers and duties shall be by said Council distributed among five departments, of which each of the members of said Council shall be the Superintendent of one, the Mayor shall make the assignment, and reassignments being made by a vote of Council when deemed necessary. The Council shall have power to change or abolish any offices now existing in said city, and to establish such offices with salaries as may seem desirable, and shall, by a vote of three members, fill any position, or remove any officer except certain civil service positions and officers as hereinafter provided for, and shall abolish, as to such city, the Commissioners provided for in "An Act to authorize the establishment of Boards of Police Commissioners, and officers thereof in cities of not less than twenty thou-

Five departments
created;
powers of
Council.

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Salaries;
meetings of
Council.

sand and not more than fifty thousand inhabitants. approved February 26, 1902, Statutes at Large, Volume XXIII, at page 1050; the police powers of said city being thereafter exercised by said Council, with one of the members of Council as Superintendent of said department: *Provided, however,* That other Acts of the General Assembly applicable to such city shall remain of force. The Mayor shall be paid an annual salary of twenty-five hundred dollars (\$2,500.00) and each Councilman an annual salary of two thousand dollars (\$2,000.00), payable in equal monthly installments. Regular meetings of the Council shall be held at such times as may be provided for by ordinance, and at least once a month, and all meetings, whether regular or special, at which any person not a city officer is admitted shall be open to the public.

Ordinances;
how passed.

Sec. 2763. Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract or granting any franchise or right to occupy or use the streets, highways, bridges or public places in the city for any purpose, shall be complete in the form in which it is finally passed, and in such form remain on file with the City Clerk, open to public inspection, at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges or public places in any city shall be granted, renewed or extended, except by ordinance passed three times on three separate days; and every franchise or grant for interurban or street railways, waterworks, gas or electric light or power plants, heating plants, telegraph or telephone systems or other public service utilities within said city, must be authorized or approved by a majority of the electors voting thereon at an election which shall be ordered by Council.

Franchise
to occupy
streets.

Penalty for officer violating law in regard to certain prohibited acts, Criminal Code.

How Mayor
and Council-
men may be
removed from
office.

Sec. 2764. The Mayor or any Councilman may be removed from office in the following manner: Whenever qualified registered electors of said city, equal in number to at least twenty per centum of the entire votes cast at the primary election which chose the candidates at the last preceding municipal election, file with the Governor a

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emanding the removal of the Mayor or any Councilman stating the grounds for said demand, the signature of each signer, and stating that he is a qualified elector of said city, said petition being duly signed to these facts by one or more persons who make oath on said petition as to any stated number of said signers, the said Governor shall order an election for not later than thirty (30) days and not earlier than ten (10) days, after the filing of the said petition with the Governor; said election to be conducted by the Board of Commissioners of Elections and the Managers of Elections, under the rules and regulations and penalties applicable to elections, at which election the said Board of Commissioners of Elections shall provide ballots, on which shall be placed the name of the Mayor or Councilman whose removal the petitioners had demanded and also the name of any other candidate, or candidates, for the office then held by the said Mayor or Councilman, the ballots to be prepared at least five (5) days before the day of the election. The person receiving the majority of the votes cast in said election shall hold the office during the term, and the incumbent shall not be removed unless a majority vote is received by some other person; if there be no election, a second election shall be held in which the ballots shall contain only the names of the incumbent and of his opponent who received the highest number of votes in the preceding election; the said election to be held on any day after the first election unless delayed by a conflict with the result of the election, in which case the Board of Commissioners of Elections shall advertise a day for the election, not later than ten (10) days after the first

6. Any proposed ordinance may be submitted to the people of any city by a petition signed by qualified registered electors of said city, equal in number to twenty per centum of the number of votes cast for Mayor at the last preceding primary election, the petition stating the facts as to the petitioners and the grounds therefor, as hereinbefore provided for petitions; and within ten (10) days after the filing of said petition, said Councilman shall either pass the said ordinance or call a special election, at

Ordinances
may be pro-
posed by peti-
tion.

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Election
thereon.

which the adoption or rejection of such ordinance shall be submitted to the registered electors of said city, or said ordinance shall forthwith, upon the failure of Council to act as hereinabove prescribed, become a valid ordinance of said city after the expiration of said two weeks. At such election, the ballots shall contain the words "For the Ordinance" (and state the title of the proposed ordinance), and "Against the Ordinance." If the majority of the registered electors voting on the proposed ordinance shall vote in favor thereof, such proposed ordinance shall thereupon become a valid ordinance of said city; and any ordinance proposed by a petition or adopted by an election as herein provided cannot be repealed or amended, except by an election as herein provided. Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this Section, but there shall not be more than one special election for such purpose in any period of six months. The Council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election or at an election specially ordered not earlier than one (1) year thereafter, or at a special election ordered at any time upon the filing of a petition of the percentage of qualified registered electors hereinbefore referred to, requesting such election to repeal or amend said ordinance.

Ordinances
may be sus-
pended.

Sec. 2766. When any ordinance is passed by Council its operation shall be suspended and its ratification or rejection shall be submitted to a vote of the qualified registered electors of the city at a special election, if a petition signed by qualified registered electors of the city as hereinbefore required, shall be presented to Council demanding the same; and after the filing of said petition, such ordinance shall not be operative unless a majority of the ballots cast at such election shall be in favor of the same.

Civil Ser-
vice Commis-
sioners.

Sec. 2767. The City Council, immediately after organizing under this Article, shall by ordinance appoint three Civil Service Commissioners, who shall hold office for two, four and six years, the successors of each to be thereafter appointed for the term of six years, at the expiration of the preceding term of service; such Commissioners to be removed

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office by Council only for cause, four Councilmen or such removal. Council shall have authority to re-employment for the unexpired term. The said Civil Service Commissioners shall, twice a year, or oftener if they deem necessary, under such rules and regulations as they may prescribe, hold examinations for the purpose of determining the qualifications of applicants for positions on the force, in the fire department, or in any other special service in the city government which by the City Council may be placed under Civil Service regulations. Examination for each line of service is to be practical, testing the fitness of the persons examined to discharge efficiently the duties of the particular line of employment. The Civil Service Commissioners shall, as soon as practicable after examination, certify to the Council the persons who satisfactorily passed such examination, stating the reasons for their excellence: *Provided, however,* That the Commissioners shall not certify the name of (and may deny the right to) any person as to whose honesty and integrity and general moral character, they have not reasonably ascertained themselves by affirmative investigation. Council may remove employees in the Civil Service departments of the city government, which shall always include the police department and the fire department, only from persons so employed by the Civil Service Commissioners; and no person holding a Civil Service position shall be removed from office by Council except by and with the approval of a majority of the Civil Service Commissioners upon charges substantiated, as to which the said employee shall have the right to make his defense: *Provided, however,* That the Mayor, Chief of Police and the Chief of the Fire Department, or the Superintendent or foreman in charge of municipal departments, may peremptorily suspend or discharge any subordinate under his direction for neglect of duty or disobedience of orders, but shall within twenty-four hours thereafter report such suspension or discharge, and the reasons therefor, to the member of Council who may be the Superintendent of said department, who shall thereupon affirm or deny the discharge or suspension, which shall be final for the employee shall, with five days of such ruling, report the same to Council, which shall, with the Civil

Examina-
tions.Removal
from office.

A. D. 1912.

Service Commissioners, fully hear and determine the matter and shall not finally discharge the employee without the concurrence of two-thirds of the Civil Service Commissioners. It shall further be the duty of the Civil Service Commissioners to give attention to the work of all the departments within the Civil Service of said city and to make reports to Council and such publications to the public as they may deem proper. Said Civil Service Commissioners may be removed upon petition and vote as hereinabove provided for members of Council. Each Civil Service Commissioner shall be paid an annual salary of two hundred dollars (\$200.00) payable quarterly.

City Attorney.

Sec. 2768. The City Council shall appoint a City Attorney, who must be a freeholder of the city, and for not less than five (5) years preceding his appointment a resident thereof. In addition to his general duties, which shall be prescribed by Council, it shall be his special duty, upon knowledge, information, belief, or probable ground of suspicion, to cause investigation, and, if possible, indictment and prosecutions for each and every violation of any of the provisions of this Article, or any other provision of law in respect to any of the inhibitions in this Article contained, or any bribery, corruption, malfeasance, or other violation of law whatsoever in respect to the said city by any member of Council, or any employee, or any other person or persons.

Oath of office.

Sec. 2769. Before entering upon the duties of his office the Mayor and each Councilman and each Civil Service Commissioner shall take and subscribe the oath of office prescribed in Section 26, Article III, of the Constitution, and further, that he will at all times endeavor to secure and maintain for the city an honest and efficient government in every particular, with an eye single to the public welfare. No member of Council or of the Civil Service Commission shall hold or be a candidate for any other office without first resigning or at once forfeiting his said office in said city government. No officer or candidate in connection with said city government shall directly or indirectly pay for any publication in any newspaper in commendation of his services or in advocacy of his candidacy or in respect thereto, or against any other candidate, except under the caption "Paid Advertisement," and any and no person, firm or corpora-

Publication in newspapers; how made.

A. D. 1912.

hing or managing a newspaper shall publish for
 tion any commendation, advocacy or condemna-
 officer or candidate for office of said city without
 said publication the price paid therefor and the
 ing the same. Any violation of any of these pro-
 l be punished by fine not exceeding five hundred
 mprisonment not exceeding one year: *Provided*,
 hat the City Council shall annually or oftener
 the information of the citizens in the daily news-
 n pamphlets, or both, detail statements of the
 l expenditures of the city and a summary of the
 and doings of the city government during the
 period following the last publication and also
 se annually publish the result of the examination
 s and accounts of the city by expert accountants,
 s of all such publications to be paid out of the
 ry.

Within five days after the filing of the Board of
Commission-
ers of Elec-
tion.
 tion for the submission of the question of the
 the form of government herein provided for,
 or of the State shall appoint from among the
 electors qualified to vote in said city three discreet
 worthy men to serve as a Board of Commissioners
 for said city for the term of two years, unless
 ved by the Governor, and until their successors
 d and have qualified, any vacancy to be filled by
 r, their compensation to be one hundred dollars
 , to be paid quarterly by the City Treasurer.
 issioners shall take the oath of office as pre-
 section 26, Article III, of the Constitution, and
 ze as a Board by appointing one of their num-
 an of the Board, and such Chairman shall be
 to administer oaths.

The said Board of Commissioners of Election Duties of
Board.
 ith appoint from among the registered electors
 vote in said city three discreet and trustworthy
 as Managers of Elections for each polling pre-
 city, for the term of two years, unless sooner
 the said Board of Commissioners of Elections
 eir successors are appointed and have qualified,
 to be filled by said Board of Commissioners C.

A. D. 1912.

Managers of
Election.Elections;
how conduct-
ed.Recount of
ballots.

Contests.

Elections, each Manager to be paid three dollars for each election in which he serves, upon a warrant on the City Treasurer, drawn by the Chairman of the Board of Commissioners of Elections. The Managers of Elections shall take the oath of office as prescribed by Section 26. Article III, of the Constitution, and that they will fairly and impartially conduct every election according to law and make a true return of the result thereof. They shall keep the polls open from eight in the morning till eight in the evening, and upon the closing of the same shall immediately proceed to count publicly the votes cast, and shall continue such count until the same is completed, and shall make a statement of the whole number of votes cast in such election together with the number of votes cast for each person voted for for Mayor and for Councilman, or for or against a proposition submitted, upon the completion of which they shall transmit such statement to the Board of Commissioners of Elections for said city, through the Chairman of said Board of Commissioners or other member designated to receive said election returns, and shall at the same time deliver the ballot box, with the ballots which had been at said election sealed up therein; and said Board of Commissioners of Elections shall, immediately upon the receipt of such statement or report of the Managers, open and publish the same and tabulate all the returns, and in case of a very close election or a seeming probability of error or for other cause in the discretion of the said Board of Commissioners, shall recount the ballots, and on the second day succeeding the said election shall declare the result. They shall file a certified statement of the results of the ballots by precincts and in aggregate with the City Clerk, and also with the Clerk of the Court for the County, and in the case of an election to determine the question of adopting or abandoning the form of government provided for in this Article, the said Board of Commissioners of Elections shall file such statement of result also with the Secretary of State for record in his office. The Board of Commissioners of Elections shall, as judicial officers, decide all protests or contests that may arise, and if necessary may adjourn from day to day and withhold the decision and the declaration of the result of the election for a period not exceeding five days.

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second day after the election. No merely technical
 errors in any of the details hereinabove prescribed
 shall vitiate an election, provided that it appear
 that all of the registered electors was ascertained. The
 Board of Commissioners of Elections shall also have
 the registration of the electors of said city, and
 the registration for four days consecutively up to
 preceding the first primary election, and shall
 be a prerequisite to registration proof of payment of
 all other taxes, if past due.

Registration
of electors.

4. The usual rule of law as to the interpretation
 of provisions and the construction of statutory
 provisions shall be reversed in respect to this Article, which
 shall be construed liberally, the spirit always controlling the
 letter, any technical deficiencies being supplied by the
 intent and the intentment of the Article as a whole in the light
 of the public needs.

This Article
to be liber-
ally con-
strued.

5. Any city after operating for six years under
 the provisions of this Article may abandon the form of gov-
 ernment herein provided and accept the provisions of the
 Constitution of the State applicable to it before the adoption
 of a new form of government, by procedure of petition and
 referendum, the question of abandonment in the manner pro-
 vided hereinabove for adopting this form of government.

How form
of govern-
ment may be
abandoned.

ARTICLE IX.

CITIES OF FIFTY THOUSAND INHABITANTS TO CON- DEMN LAND FOR WATER FRONT.

of 50,000 inhabitants
 condemn land for wa-
 ter front.
 may fill up certain low
 land at expense of owner.

SEC.

2776. How such land shall be
filled.2777. In case of disagreement the
city may condemn.

2774. Whenever any city of this State, having a
 population of fifty thousand inhabitants or more, and
 situated on a navigable stream, whether tidal or non-tidal,
 shall wish to extend, improve or protect its water front for
 public purposes, it shall have the right to acquire all private
 property needed for such extension, improvement or pro-

Cities of 50,-
000 or more
may condemn
lands on wa-
ter front.

A. D. 1912.

tection, upon the same terms and conditions and in the same manner as now provided by law for the condemnation of rights of way by railroad companies: *Provided*, That lands so condemned shall be resold to private owners by said city.

Cities may fill up certain low lands at expense of owner.

Sec. 2775. Whenever such extension, improvement or protection shall make necessary the filling up of low lands owned by private parties, to a level established by said city, and such filling up is proposed to be accomplished by excavation from the bed of a stream bordering the water front so to be extended, improved or protected, under a general plan established by said city, said low lands may be filled up by the said city at the expense of the said private owners, and the cost thereof shall be a lien upon the lands so filled up; the said cost to each private owner shall be determined by the proportion which the cubic contents of the filling in each lot or parcel of land, separately owned, shall bear to the cubic contents of the whole area filled: *Provided, however*, That if the municipality and the owner cannot agree as to the cost of the filling aforesaid to be borne by such private owner, then the same shall be determined by a proceeding in the nature of an action against such party, to be instituted by the municipality, in the Court of Common Pleas for the County in which such municipality is situated, to recover the amount claimed to be due, and the reasonable cost to be paid by such lot owner shall be determined by the jury as in the cost of similar actions.

How such lands shall be filled.

Sec. 2776. The municipality shall first notify each private owner interested of the plan proposed and of the level up to which said lots are to be filled and of the general plan proposed, and such private owners may, if they see fit, arrange to fill up their lands at their own expense, such filling up to be done either prior to or contemporaneously with the filling done by the city, such filling to be in accord with the general plan adopted; and the owner or owners of any of said lands shall be entitled to use the mud or soil in the bed of the river in front of such land for the purpose of filling up their lands, in preference to any other, to the extent necessary to fill such lands.

Sec. 2777. In the event that any lot owner objects to the cost of filling of his lot or lots, then, and in that event, such

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y require the municipality to purchase said lot at
reed upon between the said municipality and the
d in case of failure to agree upon the price, then,
at event, the said municipality shall proceed to
and is hereby authorized to condemn, the said lot
ad upon paying to the owner or owners the price
be fixed therefor, as hereinafter provided, the title
all vest in said municipality, who shall proceed to
ot or lots, and may sell the same to reimburse
all expenses and charges. That for the purpose of
emnation the said municipality shall file, in the
Common Pleas for the County in which said muni-
located, a petition setting forth the necessity of
such lots, and that the owner or owners have
failed to fill the same, upon being notified, and
owner objects to the estimated cost of said filling,
which petition shall be served upon the owner or
said lots as summons are now served in cases of
t the Judge of said Court of Common Pleas shall
cause a jury to proceed to fix the value to the said
to be paid by the said municipality.

In case of
disagreement
the city may
condemn.

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CHAPTER L.**Railroads—General Law.**

- ARTICLE 1.** General Provisions.
- ARTICLE 2.** Formation of Corporations by Purchasers.
- ARTICLE 3.** Consolidation of Companies and Other Provisions.
- ARTICLE 4.** The Railroad Commissioners.
- ARTICLE 5.** Provisions as to Discrimination and Unreasonable Charges.
- ARTICLE 6.** Regulations as to Running Trains on Sunday and Carriage of Animals.
- ARTICLE 7.** Regulations for the Prevention of Accidents and Concerning the Responsibility Therefor.
- ARTICLE 8.** Regulations for the Accommodation, Convenience and Protection of Passengers, and in Respect to Merchandise.
- ARTICLE 9.** Railroad Crossings; Cattle Guards.
- ARTICLE 10.** Right of Way.
- ARTICLE 11.** Certain Offenses; Fines, Penalties, and Forfeitures.

ARTICLE I.**GENERAL PROVISIONS.****SEC.**

2778. Construction of terms "railroads and railways," "railroads," "railroad corporations," "railroad company;" exception.
2779. Liability of corporation operating road of another corporation; Trustees and Receivers—liabilities.
2780. Persons occupying offices at railway stations, &c., to be deemed agents of corporation to whom charter was granted.
2781. Construction of word, "person" or "persons."
2782. Rules of evidence, &c.

SEC.

2783. Amendment to charters granted since Act 17th December 1841.
2784. General rights and liabilities.
2785. Corporate powers.
2786. Subscription books, &c.
2787. Right of way.
2788. Rights to other roads.
2789. Operation of completed sections.
2790. Liability of stockholders.
2791. Restriction as to executing mortgages.
2792. Proxies, execution and limitation of; penalty.

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al schedule and report
e filed by railroad com-
/ in office of Railroad
missioners.

SEC.

2794. May extend lines and
branches; limit; right of
way.
2795. Liable for damages by ob-
structing streams.

2778. In the construction of this Chapter except
h meaning would be repugnant to the context or
o the manifest intention of the Legislature, the
ilroads and railways" shall be construed to include
ds and railways operated by steam, except marine
loing business as common carriers in this State,
er operated by the corporations owning them or by
orations or otherwise; "railroad" shall be construed
a railroad or railway operated by steam power.

Definition of
terms; to
whom applica-
ble.

Civ. '02, §
2024.

"railroad corporation" or "railroad company"
in the law of this State shall be deemed and taken
all corporations, companies or individuals now
operating, or which may hereafter own or operate
ad, in whole or in part in this State, and the pro-
this law shall apply to all persons, firms and com-
d to all associations as common carriers upon any
es of railroads in this State (street railways and
mpanies excepted), the same as to railroad corpo-
reinafter mentioned.

9. When a railroad laid out and constructed by
ration is lawfully maintained and operated by
rporation, the latter shall be subject to the duties,
restrictions and other provisions, as they are set
his Chapter, respecting or arising from the main-
d operation of such railroad in the same manner
ad been laid out and constructed by said latter

Liability of
corporation
operating
road of an-
other corpora-
tion; trus-
tees and re-
ceivers, liabil-
ities of.

Civ. '02, §
2025.

n. When a railroad is lawfully maintained and
y trustees or receivers, they shall in like manner
to the duties, liabilities, restrictions and other
respecting or arising from the maintenance and
of such railroad which are attached in this Chap-
corporation for whose stockholders or creditors,
they are trustees or receivers.

is liable for damages arising from the acts of its lessee in the
he road.—National Bank v. Atlanta & C. A. Ry. Co., 25 S. C.,
ht v. C., C. & A. Ry. Co., 41 S. C., 415; 19 S. E., 915; Hart v.

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same, 33 S. C., 427; 12 S. E., 9; Harmon v. C. & G. Ry. Co., 28 S. C., 441; 5 S. E., 535; So. Ry. Co. v. Bouknight (C. C. A.), 70 Fed. Rep., 822; 3 L. R. A., 823.

Kirkland v. C. & W. C. Ry., 79 S. C., 273; 60 S. E., 668. Franklin v. Ry. Co., 74 S. C., 332; 54 S. E., 578, overruling Pennington v. Ry. Co., 23 S. C., 439. Smalley v. Ry. Co., 73 S. C., 572; 53 S. E., 1000. Shares v. Southern Ry., 72 S. C., 245; 51 S. E., 699. Logan v. Ry. Co., 82 S. C., 518; 62 S. E., 315. Reed v. Southern Ry., 75 S. C., 162; 55 S. E., 218. Harbert v. A. & C. Air Line Ry., 74 S. C., 13; 53 S. E., 1001.

See Kirkland v. C. & W. C. Ry., 15 L. R. A. (N. S.) 425, and annotations.

Persons occupying office at railway stations, &c., to be deemed agents of corporation to whom charter was granted.

Civ. '02. § 2026.

Sec. 2780. Any person occupying an office or room in any railway station and attending to and transacting therein the business of any railroad under the charter of which the said railroad is authorized by law shall be deemed the agent of such corporation, notwithstanding he may claim to be the agent of any other person or corporation claiming to operate said railroad by virtue of any lease, contract or agreement; and the bill of lading, receipt, agreement or contract signed or entered into by said person as agent of any such person or corporation operating said railroad shall be deemed the contract of the corporation under the charter of which the said railroad is so authorized.

Construction of word "person" or "persons."

Civ. '02. § 2027.

Sec. 2781. The words "person or persons," as used in this Chapter, except where otherwise provided, shall be construed and held to mean person or persons, officer or officers, corporation or corporations, company or companies, receiver or receivers, trustee or trustees, lessee or lessees, agent or agents, or other person or persons acting or engaged in any of the matters and things mentioned in this Chapter.

Rules of evidence.

Civ. '02. § 2028.

Sec. 2782. In all cases under the provisions of this Chapter the rules of evidence shall be the same as in civil actions, except as hereinbefore otherwise provided. All fines recovered under the provisions of this Chapter shall be paid one-half into the State Treasury, to be used for such purposes as the General Assembly may provide, the other half into the County Treasury of the County where said case is tried.

Disposition of fines.

Civ. '02. § 2029.

The remedies now given by law against railroad corporations and this Chapter, shall not be construed as repealing any statute giving such remedies.

Cumulative remedies.

Amendment to charters granted since Act 17th December, 1841.

Sec. 2783. Railroad corporations heretofore established in this State, whether by special Act or in conformity with the provisions of any general law, shall have the powers and privileges, and be subject to the duties, liabilities, restrictions and other provisions contained in this Chapter, which.

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inconsistent with charters granted since the seven-
 ay of December, one thousand eight hundred and
 e, shall be deemed and taken to be in alteration and
 ent thereof: *Provided*, That nothing herein con-
 hall affect any act done or any right accruing,
 or established, or any proceedings, doings, or acts
 r confirmed, or any suit or proceedings had or com-
 n any case before the Act takes effect, but the pro-
 therein shall, when necessary, conform to the pro-
 f this Chapter.

84. Every railroad company incorporated in this
 all have all the rights, powers and privileges set
 l granted in and by this Article, and be subject to
 iabilities, provisions and limitations herein con-
 nd said rights, powers, privileges, liabilities, pro-
 nd limitations shall constitute part and parcel of the
 f every such corporation. Every such corporation
 ument to the duties, liabilities, restrictions and other
 s contained in this Chapter L.

General rights
 and liabili-
 ties; con-
 tents of par-
 ticular char-
 ters.

Civ. '02, §
 2030.

Subject to
 provisions of
 chapter.

ib., 174, § 8.

85. Every such corporation may make such by-
 its regulation and government in any and all mat-
 soever, not inconsistent with the Constitution and
 e United States and of this State, as may be deemed
 , and may add to, alter or amend the same from
 ime as may be desired; may appoint all necessary
 nd prescribe their duties; may sue and be sued,
 d be impleaded, in any Court of law or equity in
 e or in the United States; and may accept, pur-
 d, lease or otherwise acquire any property, real or
 necessary or convenient to and for the purposes of
 ration, and may use, sell and convey and dispose
 me as the interest of the company may require;
 e contracts, have and use a common seal and do
 lawful acts properly incident to and connected
 corporation and necessary and convenient for the
 nd transaction of its business: *Provided*, That the
 e not repugnant to the Constitution and laws of
 or of the United States.

Corporate
 powers.

Civ. '02, §
 2031.

86. For the purpose of raising the capital stock of
 any so incorporated, it shall be lawful to open
 subscription at such times and places and under

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Subscription
books: sub-
scriptions;
power to ex-
ecute bond
and mort-
gage, &c.

Civ. '02. §
2032.

the direction of such persons as the corporators may appoint; and such subscriptions to the capital stock may be made in land, money, bonds, machinery, materials and work, at such rates as may be agreed upon with the company; and said company shall have power to mortgage its property and franchises, and issue bonds on such terms and conditions and for such purposes and uses of the corporation as the company may from time to time deem necessary.

Payment of stock in part by note and helping in organization estop stock holder from refusing to pay balance.—R. R. v. Woodslides, 5 Rich., 145.

Right of
way.

Civ. '02. §
2033.

Sec. 2787. Every such railroad company shall have every right, power and privilege necessary for the purpose of acquiring such lands or rights of way as they may require for the location or construction of said railway, or for the erection or location of depots, warehouses, stations and other necessary and convenient establishments, or for extending or altering the same, and shall have the benefit of every process or proceeding, and shall be subject to all the restrictions which shall or may be provided or imposed by the laws of the State.

See Constitution of 1895, Art. IX., Sec. 20.

Rights of
railroads.

Civ. '02. §
2034. 1908.
XXV, 1090.

Sec. 2788. Such company shall have full power and authority to connect with or cross any other railroad or railroads on its proposed line, and also to purchase, lease or consolidate with, or to sell or lease its property and franchises to, any other railroad or railroads, in or out of this State, in such manner and upon such terms as may be agreed between such railroad companies: *Provided*, That the same be not inconsistent with the laws of this State or of the United States.

Operation of
sections of
road com-
pleted or ac-
quired.

Civ. '02. §
2035.

Sec. 2789. Such company shall be further authorized and empowered forthwith, upon the completion or acquirement by purchase, lease or consolidation, of any portion or section of said railroad between any points through which the same may run under its charter, to operate and maintain such portion or section, with all the rights, powers and privileges hereby granted to the company.

Sec. 2790. Every stockholder in such corporation, created under the Constitution of 1868 and prior to the adoption of the Constitution of 1895, shall be jointly and severally liable

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editors thereof in an amount, beside the value of his shares therein, not exceeding five per cent. of the value of the share or shares held by him at the time the debt of the creditor was created: *Provided*, That such debt shall have been payable within one year; and also proceedings to hold such stockholder liable therefor commenced whilst he remains a stockholder therein, within two years after he shall have ceased to be such stockholder; and also that persons holding stock in such companies, executors, administrators or by way of collateral pledge shall not be personally subject to the liabilities of stockholders under the foregoing provisions, but the stock pledged shall be liable as a stockholder, and the estates and funds in the hands of such executors or administrators shall be liable in their hands in like manner to the same extent as the deceased testator or intestate or the ward or person interested in such trust fund, would have been if they had respectively been living and competent to act and hold the stock in their own names.

Liability of
stockholders;
extent of; lim-
itations and
provisions.

Civ. '02, §
2036.

791. No railroad corporation which has previously issued bonds shall subsequently make or execute any mortgage on its road equipment and franchises, or any of its property, real or personal, without including in and securing such mortgage, all bonds previously issued, and all existing debts and liabilities of the corporation: *Provided*, That nothing in this Section contained shall apply to a mortgage for the purchase money of any such road equipment, franchise or property, real or personal, or to a mortgage made or executed for the purpose, in whole or in part, of building, extending, improving or equipping such railroad, or any part thereof, or any other railroad, the part of whose stock is held by it, or to any pledge or hypothecation of any choses in action or other securities owned by it; nor shall this Section require that a mortgage executed by a corporation shall secure the payment of previously issued bonds or pre-existing debts and liabilities of the corporation, where the bonds to be issued and mortgage are intended, in whole or in part, to be secured by funding or otherwise, such previously issued bonds or pre-existing debts and liabilities, or where such

Railroad
mortgage,
what to cover.

Civ. '02, §
2037; 1904,
XXIV, 414.

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previously issued bonds or pre-existing debts and liabilities are secured by a pre-existing mortgage or other lien.

See Chapter XLVII., on Private Corporations, as to how stock may be voted in accordance with Constitution Art. IX., Sec. 11.

Proxies, execution and limitation of; penalty.

Civ. '02, § 2038, 1903, XXIV, 79

Annual schedule and report to be filed by Railroad Commissioners.

Civ. '02, § 2039.

Sec. 2792. No proxy shall be valid unless executed and dated within six months previous to the meeting at which it is issued.

Sec. 2793. The several railroad companies chartered by this State shall be required to file in the office of the Railroad Commissioners, on or before the thirty-first day of August in each and every year, a full and detailed schedule and report of the condition and operations of such road for the current year ending on the thirtieth day of June then immediately preceding. Such schedule and report shall be made in accordance with the following rules and form:

I. All liabilities (including interest accrued on funded debt) shall be entered upon the books in the month when they are incurred, without reference to date of payment.

II. Expenses shall be charged each month with such supplies, materials, etc., as have been *used* during that month, without reference to the time when they were purchased or paid for.

III. No expenditure shall be charged to property accounts except it be for actual increase in construction, equipments, or other property, unless it is made on old work in such a way as to clearly increase the value of the property over and above the cost of renewing the original structures, etc. In such cases, only the amount of increased cost shall be charged, and the amount allowed on account of the old work shall be stated.

IV. Mileage of passenger and freight trains shall include only the miles shown to be run by distances between stations: allowances made to passenger or freight trains for switching, and all mileage of switch engines, computed on a basis of eight miles per hour for the time of actual service, shall be stated separately.

V. Season ticket passengers shall be computed on the basis of twelve (12) passengers per week for the time of each ticket.

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cal traffic shall include all passengers carried on
ets, and all freight carried at local tariff or special
s.

er traffic shall be considered through. These rules
ect to such changes thereof as have heretofore been
hereafter be made by the Railroad Commissioners
authority conferred on them by Section 2831 of
ter.

94. It shall be lawful for any railroad or railway
on chartered by this State, and be taken as the
of powers conferred by its charter, to continue or
e main track or line of such railroad, or any exten-
of, or to build or extend branch roads from such
ek or line to any point or points in the vicinity
whenever it may be deemed advisable by such cor-
so to do; but such extension or branch shall not
e miles in length. For the purpose of acquiring
way for any such extension or branch track, such
or railway corporation shall have and be entitled to
ghts and privileges and be subject to all the restric-
ained in this Chapter in reference to the manner
ng the right of way.

May extend
lines and
branches;
limit; right
of way.

Civ. '02, §
2040.

95. Railroad corporations shall be liable to land
r all damages resulting from the wrongful obstruc-
ater courses by such corporations, and it shall not
ry to allege and prove that such damages resulted
negligent construction of the road or other works
orporations, but any person who is damaged shall
d to recover as in actions against individuals upon
the wrongful obstruction of such water courses.

Railroad com-
panies liable
to landowners
for damages
for obstruc-
tion of water
courses.

Civ. '02, §
2041.

or grantee of the creator of an obstruction of a water course,
a nuisance was, prior to the passage of this action, liable in
ere he either increased the obstruction, or continued it, after
emand for removal.—Elliott v. Rhett, 5 Rich., 520; Hammond v.
S. C., 574; Leltsey v. Water Power Co., 47 S. C., 476; 25 S. E.,
R. A., 215; Townes v. City Council, 52 S. C., 404; 29 S. E., 851;
R. Co., 54 S. C., 98; 32 S. E., 75; DeLaney v. R. R. Co., 58
6 S. E., 699.

Catawba Power Co., 76 S. C., 320; 56 S. E., 966; Lawton v.
75 S. C., 82; 55 S. E., 128; Lampley v. A. C. L. R. R. Co., 71
50 S. E., 773; Touchberry v. N. W. R. R. Co., 83 S. C., 315;
3; Shores v. Southern Ry., 72 S. C., 244; 51 S. E., 699.

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ARTICLE II.

FORMATIONS OF CORPORATIONS BY PURCHASERS.

SEC.

2796. Purchasers at certain sales may form corporation; certificate to be filed; where; what to contain, &c.

2797-2798. Owners of abandoned roads to operate same.

2799. To what roads applied.

2800. Powers, rights, &c., of new corporation.

SEC.

2801. May issue bonds; rate of interest; mortgage railroad property.

2802. Provisions as to recording railroad mortgages.

2803. May establish sinking fund; issue stock, to what amount; make by-laws, &c.

2804. New company to hold subject to provision of Section

Purchasers of may form a corporation; certificate to be filed in Secretary of State's office; proviso as to capital stock.

Civ. '02, § 2042.

Section 2796. In case of the sale of any railroad situated heretofore or hereafter, wholly or partly within this State, by virtue of any mortgage or deed in trust, whether under foreclosure or other judicial proceeding, or pursuant to any power contained in such mortgage or deed of trust, the purchaser or purchasers thereof, or his or their survivor or survivors, representatives or assigns, may, together with their associates (if any), form a corporation for the purpose of owning, possessing, maintaining, and operating such railroad, or such portion thereof as may be situated within this State, by filing in the office of the Secretary of State of this State a certificate specifying the name and style of such corporation, the number of directors of the same, the names of its directors, and the period of their services, not exceeding one year, the amount of the capital stock of such corporation, and the number of shares into which it is to be divided; and the persons signing such certificate, and their successors, may be a body corporate and politic, by the name specified in such certificate, with power to sue and be sued, contract and be contracted with, and to own, possess, maintain, and operate the railroad referred to in such certificate, and to transact all business connected with the same: and a copy of such certificate, attested by the Secretary of State or his deputy, shall, in all Courts and places, be evidence of the due organization and existence of such corporation and of the matters specified in such certificate: *Provided*, That nothing herein contained shall be construed to authorize in any manner the purchase or lease of such railroad by any railroad corporation or steamship company, chartered either by this or by any other State, except as herein-

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vided: *And provided, further,* That the capital
e named in the certificate aforesaid, shall in no
eater than the amount of the capital stock speci-
original charter of the railroad so sold, and any
t or amendments thereto.

herein contained, however, shall be construed to
a increase of capital stock to such additional
may be needed to convert any bonds or other
ss of the original corporation into stock, and the
a so formed may divide its capital stock into
id preferred stock upon such terms and with such
as may be prescribed.

Additional
proviso as to
increase of
capital stock.

Gibbes, 24. S. C., 70.

allway, Carolina Division, v. Howell, 79 S. C., 285; 60 S. E.,

. Any person, company or corporation who now
line of railroad in this State, and who have not
and are not now operating said railroad, shall,
y days from the passage of this Section, reorgan-
e as provided for in Section 2796; and any per-
any or corporation now running or hereafter
any railroad within this State by purchase or
shall organize and put into operation said road
y (60) days from their purchase or acquisition

Owners of
a b a n d o n e d
railroad to
commence op-
eration with-
in 60 days.

Civ. '02, §
2043.

p Should such person, corporation or company
in Section 2797 fail to reorganize said company
d for in Section 2797, within the time therein
n said person, corporation or company shall pay
of fifty dollars per day for each and every day
fail to operate said railroad; this penalty to be
y the Railroad Commission of this State: *Pro-*
ever, That the penalty herein provided shall not
re reasonable cause for failure to operate can be
d said person, company or corporation shall, in
the penalty above provided, also forfeit all of
ses, powers and privileges.

Penalty for
failure to
comply.

Civ. '02, §
2044.

. The provisions of Section 2797 shall only
e main lines and regular branches of any rail-
this State, and shall not apply to any side tracks

To what roads
this Act ap-
plies.

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or spur tracks constructed for special or temporary purpose or occasional use.

Powers,
rights, &c., of
new corpora-
tion.

Civ. '02, §
2046.

Sec. 2800. Such corporation shall possess all the powers, rights, immunities, privileges, and franchises in respect to such railroad, or the part thereof included in such certificate, and in respect to the real and personal property appurtenant to the same, which were possessed or enjoyed by the corporation which owned or held such railroad previous to such sale, under or by virtue of its charter and any amendments thereto, and of other laws of this State, or the laws of any other State, in which any part of such railroad may have been situated, not inconsistent with the laws of this State.

R. R. Co. v. Gibbes, 24 S. C., 701.

Southern Railway, Carolina Division, v. Howell, 79 S. C., 285: 60 S. C., 677.

May issue
bonds; rate of
interest;
mortgage rail-
road prop-
erty.

Civ. '02, §
2047.

Sec. 2801. Such corporation shall have power to make and issue bonds bearing such rate of interest, not exceeding seven per cent. per annum, payable at such times and places, and in such amount or amounts as it may deem expedient, and to sell and dispose of such bonds at such prices and in such manner as it may deem proper, and to secure the payment of such bonds by its mortgage or deeds of trust of the railroad or any part thereof, and its real and personal property and franchises. And all of the property and franchises of such corporation embraced or intended to be embraced in any such mortgage or deed of trust, whether then held or hereafter acquired, shall be subject to the lien and operation of such mortgage or deed of trust, and in case of sale under the same, shall pass to and become vested in the purchaser or purchasers thereof, so as to enable him or them to form a new corporation in the manner hereinbefore prescribed, and to vest in such new corporation all the faculties, rights, immunities, privileges and franchises possessed by its predecessor or conferred by this Chapter.

Provisions as
to recording
railroad mort-
gages.

1903, XXIV.,
80.

Sec. 2802. Mortgages or deeds of trust covering the whole or any part of the real or personal property of a railroad company and the appurtenant franchises, shall be valid as to affect from the time of their execution and delivery the rights of all subsequent creditors and purchasers, when recorded within forty days from the execution and delivery.

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the office of the Secretary of State: *Provided*, in six months thereafter such mortgages or deeds all be recorded also in the books provided for the of mortgages on real estate in the office of the Court or Register of Mesne Conveyance of each which any part of the real property affected situated: *And provided, further*, That such mort- deeds of trust if so recorded in the office of the of State, and also in the books provided for the of mortgages on real estate in the office of the ourt or Register of Mesne Conveyance subsequent ration of said period of forty days, shall be valid e rights of all subsequent creditors and purchas- he date of such record: *Provided*, That nothing tained shall be construed to affect the provisions

1. Such corporation shall also have power to sinking funds for the payment of its liabilities, the capital stock, to such an aggregate amount as deemed necessary, not exceeding the amount named certificate of organization. And any such corporation also have power to make by-laws, rules and regulation to its business and the number of its and the times and places of holding meetings of holders and directors, and the same to alter and may be deemed expedient: *Provided*, That such rules and regulations shall conform to the laws of

Any railroad corporation, formed under the
of this Article, shall be subject, as to the charter
poration, to the provisions of Section 2481, any
n the original charter of the company which
eld such railroad previous to such sale, and any
; thereto, to the contrary notwithstanding.

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ARTICLE III.

CONSOLIDATION OF COMPANIES AND OTHER PROVISIONS.

Sec.

2805. Companies may merge and form continuous lines; proviso.

2806. How consolidation effected and new company formed.

2807. Rights, privileges and franchises of new corporation.

2808. Transfer of rights, &c., of each corporation; liabilities of.

2809. Shall establish offices.

2810. Liability to suits.

2811. Subject to taxation.

2812. Privileges of stockholders opposing consolidation; proceedings by.

Sec.

2813. May purchase connecting roads sold under mortgage or decree; rights, franchises and privileges.

2814. Amalgamation of railroads restricted.

2815. May purchase bonds and stock of other companies, and purchase or lease other roads; proviso; and guarantee their bonds and stocks, &c.

2816. Ownership of certain stock prohibited.

2817. May aid in construction of other roads or steamship lines.

Companies may merge and consolidate; proviso.

Civ. '02, § 2050.

Section 2805. It shall be lawful for any railroad company organized under the laws of this State, and operating a railroad, whether wholly within or partly within and partly without this State, under authority of this and any adjoining State, to merge and consolidate its capital stock, franchises and property with those of any other railroad company or companies organized and operated under the laws this or any other State, whenever two or more railroads of the companies proposed to be consolidated are continuous or are connected with each other, or by means of any intervening railroad. Railroads terminating on the banks of any river which are or may be connected by ferry or otherwise shall be deemed continuous under this Article. Nothing in this Article contained shall be taken to authorize the consolidation of any company of this State with that of any other State whose laws shall not also authorize the like consolidation: *Provided*, That nothing contained in this Section shall authorize any merger or consolidation inconsistent with the Constitution and laws of this State, with regard to parallel or competing railroad lines, but such merger and consolidation shall be subject to the limitations mentioned and specified therein: *Provided, further*, That when railroad companies are consolidated under the provisions of this Article a charter of incorporation for the new company so formed by such consolidation shall be issued to the owners and stockholders of the company so consolidating.

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h of them as the stockholders of each of said com-
hall designate: *And provided, further,* That only
now provided by law for consolidation be charged,
additional fee be charged for such charter.

Ry. Co., 72 S. C., 486; 52 S. E., 223; Reed v. Ry. Co., 75 S. C.,
E., 218; Geraty v. A. C. L. R. R. Co., 80 S. C., 355; 60 S. E., 936;
allway, Carolina Division, v. Howell, 79 S. C., 285; 60. S. E., 677.
Joseph v. Southern Railway Co., 127 Fed., 606; Lee v. A. C. L.
0 Fed., 774.

106. Said consolidation shall be made under the
as, provisions, restrictions, and with the powers
r in this Chapter mentioned and contained; that is

Provisions
governing
consolidation;
terms of
agreement by
Directors to
be submitted
to stockhold-
ers, filed in
office of Sec-
retary of
State.

directors of the several corporations proposing to
ate may enter into a joint agreement, under the cor-
eal of each company, for the consolidation of said
es and railroads, and prescribing the terms and
as thereof, the mode of carrying the same into
ie name of the new corporation, the number and
f the directors and other officers thereof, and who
the first directors and officers, and their places of
e, the number of shares of the capital stock, the
of par value of each share, and the manner of con-
the capital stock of each of the said companies into
the new corporation, and how and when directors
ers shall be chosen, with such other details as they
em necessary to perfect such new organization and
olidation of said companies or railroads.

Civ. '02, §
2051.

d agreement shall be submitted to the stockholders
of the said companies or corporations at a meeting
called separately, for the purpose of taking the
o consideration; due notice of the time and place
ng such meeting, and the object thereof, shall be
a general notice, published in some newspaper in
town or County where such company has its prin-
ce or place of business; and at the said meeting of
ders the agreement of the said directors shall be
ed, and a vote, by ballot, taken for the adoption or
of the same, each share entitling the holder thereof
ote; and said ballots shall be cast in person or by
nd if a majority of all the votes of all the stock-

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holders shall be for the adoption of said agreement, that that fact shall be certified thereon by the secretary of the respective companies, under the seal thereof; and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the Secretary of State, and shall, from thence, be deemed and taken to be the agreement and the act of consolidation of the said companies, and a copy of said agreement and act of consolidation, duly certified by the Secretary of State, under the seal thereof, shall be evidence of the existence of said new corporation.

Proof of charter and consolidation agreement.—*Montgomery v. Railway Co.* 78 S. C., 506; 53 S. E., 987.

Rights, &c.,
of new cor-
poration.

Civ. '02, §
2052.

Sec. 2807. Upon the making and perfecting the agreement and act of consolidation, as provided in the preceding Section, and filing the same, or a copy, with the Secretary of State, as aforesaid, the several corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, possessing within this State all the rights, privileges and franchises, and subject to all the restrictions, disabilities and duties of each of such corporations so consolidated.

Pickett v. Southern Railway Co., 69 S. C., 449; 48 S. E., 466.

Transfer of
rights, &c., of
each corpora-
tion; liabilities
of.

Civ. '02, §
2053.

Sec. 2808. Upon the consummation of said act of consolidation, as aforesaid, all and singular the rights, privileges and franchises of each of said corporations, parties to the same, and all the property, real, personal, and mixed, and all debts due on whatever account, as well as of stocks, subscriptions, and other things in action belonging to each of such corporations, shall be taken and deemed to be transferred to, and vested in, such new corporation, without further act or deed; and all property, all rights of way, and all and every other interest shall be as effectually the property of the new corporation as they were of the former corporation, parties by said agreement; and the title to real estate, either by deed or otherwise, under the laws of this State, vested in either of such corporations, shall not be deemed to revert, or be in any way impaired by reason of this Chapter: *Provided*, That all rights of creditors, and all liens upon the property of said corporations shall be preserved unimpaired; and the respective corporations may

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l to continue in existence to preserve the same; debts, liabilities and duties of either of said companies shall thenceforth attach to said new corporation, enforced against it to the same extent as if said liabilities and duties had been incurred or contracted

Southern Railway Co., 69 S. C., 449; 48 S. E., 466. Who are Stewart v. W. & W. Ry., 64 S. C., 92; 41 S. E., 827.

9. Such new company shall, as soon as after such consolidation, establish such offices as may be, one of which shall be at some point in this line of its road, and may change the same at giving public notice thereof in some newspaper on the line of said road.

Shall establish offices.

Civ. '02, § 2054.

10. Suits may be brought and maintained against any company in any of the Courts of this State, for all action, in the same manner as against other railroad companies therein.

Liability to suits.

Civ. '02, § 2055.

R. Co., 72 S. C., 486; 52 S. E., 223.

11. That portion of the road of such consolidated company in this State, and all its real estate and other property heretofore subject to taxation, shall be subject to taxation, and assessed in the same manner, and with the same rights as the property of other railroad companies in

Subject to taxation.

Civ. '02, § 2056.

Southern Railway, 66 S. C., 281; 44 S. E., 748.

12. Any stockholder of any company hereby authorized to consolidate with any other, who shall refuse to transfer his stock into the stock of the consolidated company, at any time within thirty days after the adoption of an agreement of consolidation by the stockholders, as provided in Chapter provided, apply, by petition, to the Court of Pleas of the County in which the chief office of the company may be kept, or to a Judge of said Court, if no such Court sits within said period, on notice to said company, to appoint three disinterested persons to estimate the damage, if any, done to such company by said proposed consolidation, and whose report shall be confirmed by a majority of them, when confirmed by

Privileges of stockholders opposing consolidation proceedings by.

Civ. '02, § 2057.

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the said Court, shall be final and conclusive, and the persons so appointed shall also appraise said stock of said stockholder at the full market value thereof, without regard to any depreciation or appreciation in consequence of the said consolidation; and the said company may, at its election, either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined; and upon the payment of the value of the stock, as aforesaid, the stockholder shall transfer the stock so held by him to said company, and to be disposed of by the Directors of said company, or to be retained for the benefit of the remaining stockholders: and in case the value of said stock, as aforesaid, is not paid within thirty days from the filing of said award and confirmation by said Court and notice to said company, the damages, so found and confirmed, shall be a judgment against said company, and collected as other judgments of said Court are, by law, recoverable.

May purchase
connecting roads,
rights, &c.

Civ. '02, §
2058.

Purchase,
leasing, &c.,
of railroads
restricted.

Sec. 2813. When any railroad shall be sold and conveyed by virtue of any mortgage or deed of trust, or under and by virtue of any process or decree of any Court of this State, or of the Circuit Court of the United States, it may be lawful for any company, of which the railroad connects therewith, to purchase and pay for the same, to issue their own stock for such an amount as the purchasers may deem the full and fair value thereof, and to hold and enjoy the railroad so purchased, with all the rights, privileges and franchises, and with the same rights to charge for tolls, transportation and car services, and subject to the same restrictions as were held, enjoyed and limited by and in respect to the company of which the road may be so sold: *Provided, however,* That no corporation, individual, or association or either or both, shall purchase or lease any railroad lying in whole or in part within this State, or any interest therein, or shall operate the same, where such purchaser or lessee already owns, operates or is interested in a line or lines of railroad which, either alone or in conjunction with other connecting railroads lying within or without this State, can compete between any two or more points within this State, and any such purchase, lease or acquisition is hereby declared to be null and void; nor shall any

A. D. 1912,

ual or individuals owning or exercising a controlling in any such competing company or companies either or indirectly purchase or lease, in whole or in part, h railroad; and the corporators or individuals so g by making such acquisition shall also forfeit any se or license which they may hold from this State ate or hold the competing road which they own, or are interested in, and the company owning the l so to be controlled shall forfeit its charter, franchise se to own and operate the same.

actically works a consolidation of the roads.—*So. Ry. Co. v. City of Greenville*, 45 S. C., 602; 23 S. E., 953; see Sec. 2115, *post*.
Constitution of 1895, Art. IX., Secs. 7 and 20.

2814. No corporations owning and controlling a line road which can compete as above set forth shall make consolidation, amalgamation or merger of stocks or ses or of railroads or interests, and any contract or ent for the same shall be null and void.

Amalgama-
tion, etc., of
railroads, re-
stricted.

Civ. '02, §
2059.

2815. It shall and may be lawful, except as pro- in Section 2817, and in Sections 7 and 20 of Article the Constitution of 1895, for any railroad company by and existing under the laws of this State, from time, to purchase and hold the stocks and bonds, r, of any other railroad company or companies char- y or of which the road or roads is or are authorized d into this State; and it shall be lawful, except as ted in Section 2817, and in Sections 7 and 20 of Arti- of the Constitution of 1895, for any railroad com- to enter into contracts for the purchase, use or lease other railroads, upon such terms as may be agreed ith the company or companies owning the same, and use and operate such road or roads in accordance ch contract or lease: *Provided*, That the roads of panies so contracting or leasing shall be directly, means of intervening railroads, connected with each And it shall and may be lawful for any railroad tion now organized, or which may hereafter be ed under the laws of this State, to guarantee the r stocks or dividends of any other railroad corpora- whenever the roads of such corporations shall connect ch other, or shall form a continuous line of railroad

May pur-
chase bonds
and stock of
other com-
panies. Lease
other roads.
Guarantee
bonds of
stocks.

Civ. '02, §
2060.

A. D. 1912.

directly, or by means of any connecting railroad, or by steamboat or steamship line, such guaranty to be upon such terms and conditions as may be agreed upon by the stockholders of the corporations making the same: *Provided*, That no railroad corporation consolidating as hereinbefore provided shall thereby acquire any extraordinary rights, privileges and exemptions not enjoyed by each of the companies consolidating under their respective charters: *And provided further*, That all such agreements, and all parts of them, shall, at all times, be subject to amendment, alteration or repeal by the Legislature.

Ownership of
stock in cer-
tain cases
prohibited.

Civ. '02, §
2061.

Sec. 2816. No corporation, individual, or association or either or both, owning or operating directly or indirectly any railroad lying in whole or in part within this State, or owning or controlling at the time, either solely or in connection with others, a majority of the stock of the corporation owning or controlling, by stock, ownership or otherwise, any such railroad, shall own or be interested in the stock of any corporation chartered by this State which owns or leases, in whole or in part, or is otherwise interested in, any railroad which competes in the manner set forth in Section 2814 with the railroad or railroads so owned or operated by the parties seeking to acquire or become interested in said stock of said corporation last mentioned. A purchase or acquisition of the stock of a company controlling said last named company by stock ownership is likewise prohibited. In the event of such acquisition of such stock, or an interest therein, by said parties first in this Section above named, the charter of the corporation of this State last mentioned owning such railroad shall be forfeited, and its franchises are *ipso facto* withdrawn, and all railroad charters hereafter accepted are declared to be granted subject to this condition. And the Attorney-General of this State shall proceed at once, in the name of the State, to have said dissolution decreed by a Court of competent jurisdiction, and to dispose of the property of said corporation and distribute its assets to its creditors and stockholders according to law.

Attorney-Gen-
eral to en-
force.

Duty of At-
torney Gen-
eral.

It shall be the duty of the Attorney-General to see to the observance of this Section, and to proceed by action, or other appropriate proceedings, legal or equitable, to inquire into

A. D. 1912,

r terminate the unlawful exercise of any franchise
lience to the terms thereof.

17. A railroad corporation may aid in the con- May aid in
of any branch or connecting railroad within the construction
this State, whether connecting by railroad or of other rail-
lines, by subscribing for shares of stock in such roads or
on, or of any steamship line connecting the ter- steamboat
such railroad company with any port of the lines.
ates, or by taking its notes or bonds, to be secured
age or otherwise, as the parties may agree, and
ntitled to vote on all shares of stock so subscribed
eld.

Civ. '02, §
2062.

ARTICLE IV.

THE RAILROAD COMMISSIONERS.

ion; terms; salaries, &c.
m, eligibility.
ion of office; Clerk, &c.
ses to be borne by the
road, telegraph and ex-
s companies.
general supervision over
roads, express and tele-
h lines.
edings for violation of
rters.
ive notice of repairs;
eedings thereon.
investigate complaints;
eedings thereon.
vestigate causes of ac-
nts.
require information from
panies.
est or advice not to im-
rights and liabilities.
nake annual report to
islature.

- Sec.
- 2830. To require annual reports from companies.
 - 2831. To supervise poolings, contracts, &c.
 - 2832. May subpoena witnesses, &c.
 - 2833. Penalty for failure by agents, &c., to report to commissioners.
 - 2834. May propose interrogatories.
 - 2835. May examine books of companies.
 - 2836. To have access to list of stockholders of companies.
 - 2837. Investigation of books and papers, &c.
 - 2838. Railroad Commission given jurisdiction over telephone lines.
 - 2839. Powers of Commission.
 - 2840. Penalty for refusing to obey Commission.
 - 2841. Proportion of expenses.

2818. There shall be three Railroad Commission-
l in accordance with the provisions hereafter con-
at is to say: they shall be elected by the present
Assembly for the term of two years, beginning
first day of January, 1893. At the expiration of
s they shall be succeeded by their successors in
o shall have been elected at the next general State

Three Com-
missioners
Civ. '02, §
2063.
Election and
term of office.
Subsequent
elections.

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Terms of office.

Oaths and disabilities.

Vacancies.

Salaries.

Quorum.

Civ. '02, § 2064.

Eligibility of Commissioners.

Id.

Office, &c.

Civ. '02, § 2065.

Clerk and his salary.

Location of office.

Payment of expenses.

Limit to expenditures.

election. The Commissioners of Election for the several Counties in the State shall at each general election here provided for conduct the election of the Commissioners as is conducted the election of other State officers other than Governor and Lieutenant Governor. The term of office of the Commissioners to be elected at the general election of 1894 shall be for two, four and six years, respectively, the term of each Commissioner to be determined by lot, in the presence of the Governor. At the expiration of said terms respectively, they shall each be succeeded by his successor in office, who shall have been elected at the general election next preceding the date of said expiration. Said Commissioners shall take the oath of office provided by the Constitution and laws of this State for State officers, and shall not, jointly or severally, or in any way, be the holder or holders of any railroad stock or bond. The Governor shall have the power to fill vacancies in the office of Commissioner until the successor in such office for a full term or an unexpired term, as the case may be, shall have been elected at the next ensuing general election and qualified. The salary of each Commissioner shall be twenty-one hundred dollars per annum, to be paid from the treasury of the State.

Sec. 2819. A majority of said Commissioners shall constitute a quorum for the transaction of all business pertaining to their office. The Commissioners to be elected under the terms of this Article shall be elected from the State at large: *Provided*, That any male citizen of this State above the age of twenty-five years shall be eligible to election to the position of Railroad Commissioner.

Sec. 2820. The said Commissioners shall be furnished with an office, necessary furniture and stationery, and may employ a secretary or clerk at a salary of twelve hundred dollars per annum, at the expense of the State. The office of said Commissioners shall be kept in Columbia, and all sums of money authorized to be paid by this Article out of the State Treasury shall be paid only on the warrant of the Comptroller-General: *Provided*, That the total sum to be expended by said Commissioners for office rent, furniture and stationery shall in no case exceed the sum of five

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dollars (\$500), or so much thereof as may be
, per annum.

21. The expenses of the Commissioners, including and the salary of their secretary or clerk, shall be the several corporations owning or operating railroad and express companies in this State, according to their gross income proportioned to the number of this State, to be apportioned by the Comptroller-General of the State, who, on or before the first day of January in each and every year, shall assess upon each of the corporations its just proportion of such expenses in proportion to its gross income for the current year ending on the thirtieth day of June preceding that on which the assessment is made; and the said assessment shall be charged against the said corporations, respectively, under the direction of the Comptroller-General, and shall be collected by the several County Treasurers in the manner provided by law for the collection of taxes from such corporations, and shall be paid by the said County Treasurers into the Treasury of the State, in like manner as other taxes collected by them for the State. The Commissioners and their secretary shall be transported free of charge, when in the performance of the duties of the Commission concerning railroads, over all railroads and railways in this State, and they may take with them as many other agents whose service they may deem to be necessary of importance, and they shall in like manner be transported free of charge.

Assessment
on R. R. Cos.Civ. '02, §
2066.Basis of as-
sessment.When pay-
able.Free trans-
portation.Experts and
agents.

be constitutional.—R. R. Co. v. Gibbs, 24 S. C., 70; 27 S. C., 385;

22. The Commissioners shall have the general supervision of all railroads and railways, express and telegraph lines in this State operated by steam, and shall examine the same and keep themselves informed as to their condition and the manner in which they are operated, with reference to the security and accommodation of the public, and the compliance of the several corporations with the provisions of their charters and the laws of the State; and the provisions of this Chapter; and the provisions of this Chapter shall apply to all railroads and

Have gen-
eral super-
vision.Civ. '02, §
2067.

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railways, and to the corporations, trustees, receivers, or others owning or operating the same.

Regulation of hours when ticket office must be opened.—*Hall v. S. C. R. Co.*, 25 S. C., 564.

Confers powers of supervision.—*Railroad Commissioners v. A. C. L. Ry. Co.*, 71 S. C., 130; 50 S. E., 641.

Commission's power to regulate does not exclude that of municipalities within their limits.—*Boggero v. Railway*, 64 S. C., 104; 41 S. E., 819.

Court will not review findings of fact by commission.—*Railroad Commissioners v. A. C. L. Ry. Co.*, 74 S. C., 80; 54 S. E., 224.

Notice of hearing to be given.—*Railroad Commissioners v. C., N. & L. R. R. Co.*, 82 S. C., 418; 64 S. E., 240.

Proceedings
for violating
charters.

Civ. '02, §
2088.

Sec. 2823. Whenever, in the judgment of the Railroad Commissioners, it shall appear that any such corporation has violated any law, or neglected, in any respect or particular, to comply with the terms of its charter, or with the provisions of any of the laws of the State, especially in regard to the connections with other railroads, the rates of toll, and the time schedule, they shall give notice thereof in writing to such corporation, and if the violation or neglect is continued after such notice, the Commissioners shall make application to a Circuit Judge, or a Judge thereof, in vacation, for an injunction to restrain the company complained of from further continuing to violate the law or the terms of its charter, or for a writ of mandamus, as hereinafter provided in Section 2885.

Give notice
of repairs.
Proceedings.

Civ. '02, §
2069.

Sec. 2824. Whenever, in the judgment of the Railroad Commissioners, it shall appear that repairs are necessary upon any such railroad, or that any addition to the rolling stock, or any enlargement of, or improvement in, the stations or station houses, or any modification in the rates of fare for transporting freight or passengers, or any change in the mode of operating the road and conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public, they shall give information, in writing, to the corporation of the improvements and changes which they adjudge to be proper; and if the said company shall fail, within sixty days, to adopt the suggestions of said Commissioners, they shall take such legal proceedings as they may deem expedient, and shall have authority to call upon the Attorney-General to institute and conduct such proceedings.

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Commissioners v. R. R., 26 S. C., 353; 2 S. E., 127.

izes the Commissioners to ascertain and determine the facts.—Rail-
missioners v. A. C. L. R. R. Co., 71 S. C., 132; 50 S. E., 641.

Road Commissioners v. A. C. L. R. R. Co., 74 S. C., 80; 54 S. E.,

2825. Upon the complaint and application of the and Aldermen or Council of any city, town, or Board of Commissioners of any County within any part of any such railroad is located, it shall be y of the Railroad Commissioners to make an exami- of the condition and operation thereof. Before pro- to make such examination in accordance with such tion, said Commissioners shall give to the applicants railroad corporation reasonable notice, in writing, ime and place of entering upon the same. If, upon amination, it shall appear to the Commissioners complaint alleged by the applicant is well founded, all so adjudge, and shall inform the corporation ng such railroad of their adjudication, in the same as is provided in Section 2823 of this Chapter; and pany failing for sixty days after such notice to the cause of such complaint, they shall make report to the General Assembly for such action as it may pedient; or if there be necessity for prompt action, y take such legal proceedings as may be proper, Attorney-General shall institute and conduct such ngs.

Investigate
complaints;
notice in writ-
ing; proceed-
ings.

Civ. '02, §
2070.

municipal authorities to regulate speed, etc., of railroads in their ggero v. Southern Railway, 64 S. C., 104; 41 S. E., 823.

326. The Railroad Commissioners shall investigate es of any accident on a railroad resulting in loss of of any accident not so resulting, which, in their t, shall require investigation.

Shall inves-
tigate causes
of accidents.

Civ. '02, §
2071.

327. Every railroad corporation shall, at all times, st, furnish the Railroad Commissioners any infor- equired by them concerning the condition, manage- d operation of its railroads, and particularly with time tables, and also with the rates of transport- ght and passengers upon its road and other roads ch its business is connected.

May require
information.

Civ. '02, §
2072.

28. No request or advice of the Railroad Com- s shall have the effect to impair, in any manner or

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Request or
advice not im-
pair legal du-
ties.Civ. '02, §
2073.To make an-
nual report to
Legislature.Civ. '02. §
2074.Requires an-
nual reports;
furnish
blanks; de-
fective re-
ports amend-
ed; transmit
annual re-
port.Civ. '02. §
2075.

degree, the legal duties and obligations of any railroad corporation or its liability for the consequence of its acts, or of the neglect or mismanagement of any of its agents or servants.

Sec. 2829. The Commissioners shall make an annual report to the Legislature of their official acts, including such statements, facts and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the State; and such suggestions as to the general railroad policy of the State, or as to any part thereof, or as to the condition, affairs or conduct of any of the railroad corporations, as may seem to them appropriate, with a special report of all accidents and the causes thereof, for the preceding year. And they shall also recommend such legislation as in their judgment may be necessary to secure just and reasonable rates for the transportation of passengers and freights and for the prevention of unjust discrimination.

Sec. 2830. The Commissioners shall require the annual reports to be made by railroad companies in manner and form and at the time provided for herein, and shall be authorized to require reports to be made of such other matters as they may deem expedient; and they may, from time to time, make such changes as they may deem proper in the form of report herein prescribed, giving the corporations one year's notice of any such changes or additions as require any alterations in the method or form of keeping their accounts; and the Commissioners shall, on or before the first day of June in each year, furnish to the several railroads blank forms of such reports. When the report received from any corporation is defective, or probably erroneous, the Commissioners shall notify the corporation to amend the same within fifteen days. The Commissioners shall prepare such tables and abstracts of all the returns they shall deem expedient, and their annual report shall be transmitted to the Governor of the State on or before the second Monday in November in each year, to be laid before the Legislature. The originals of the report or reports, as amended, subscribed, and sworn to by the officers of the corporation, shall be preserved in the office of the Commissioners.

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331. All contracts and agreements between railroad companies doing business in this State as to rates of freight and passenger tariffs shall be submitted to said Commissioners for inspection and correction, that it may be seen whether or not they are a violation of the law or of the provisions of the Constitution or of this Chapter, or of the existing regulations of said Commissioners; and all contracts and agreements whatever as to the division of earnings of any kind by competing railroad companies doing business in this State shall be submitted to said Commissioners for inspection and approval, in so far as they relate to the rules and regulations made by said Commissioners to govern all persons doing business with said companies as to reasonable rates of freight and passenger tariff, or as they are affected by any of the provisions contained in this Chapter, for securing to all persons just, equal and reasonable facilities for the transportation of freight and passengers; and said Commissioners may make rules and regulations as to such contracts and agreements which may be then deemed necessary and proper; and any contracts and agreements not approved by such Commissioners, the value of which rates shall be charged exceeding the value for freight and passengers, shall be deemed, held to be violations of this Chapter, and shall be invalid.

Supervisor of contracts.

Civ. '02, § 2076.

Division of earnings to be approved.

Rules and regulations.

Any of said contracts, agreements, or arrangements shall, in violation of the provisions of this Chapter, in any way be in violation of any of the provisions of this Chapter, the Commissioners shall forthwith notify the said railroad company in writing, of their objections thereto, specifying the reasons therefor; and if the said railroad companies shall fail to comply, within five days after such notice, to amend and conform such contract, agreement, or arrangement, in a satisfactory manner to the Commissioners, the Commissioners may thereupon call upon the Attorney-General to institute and conduct such legal proceedings as may be necessary to enforce the penalties prescribed in this Chapter for such violations of its provisions.

Void agreements.

32. Said Railroad Commissioners in making any investigation for the purpose of obtaining information pur-

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Right to is-
sue subpoe-
nas.Civ. '02, §
2077.Fees of wit-
nesses.

How paid.

Penalty for
disregard of
subpoena.

Contempt.

Penalty for
failure by
agent, &c., to
report, &c.Civ. '02, §
2078.May pro-
pose interrog-
atories.Civ. '02, §
2079.May exam-
ine books.Civ. '02, §
2080.

suant to this Chapter shall have power to issue subpoenas for the attendance of witnesses by such rules as they may prescribe, and said witnesses shall receive from the State Treasury for such attendance one dollar per day and five cents per mile traveled by the nearest practical route in going to and returning from the place of meeting of said Commissioners, to be ordered paid by the Comptroller-General upon presentation of subpoenas sworn to by the witnesses as to the number of days served and miles traveled before the Clerk of said Commissioners, who is hereby authorized to administer oaths. In case any person shall wilfully fail or refuse to obey such subpoena, it shall be the duty of any Circuit Judge of the Court of Common Pleas and General Sessions of any County, upon application of said Commissioners, to issue an attachment for such witness and compel him to attend before the Commissioners and give his testimony upon such matters as shall be lawfully required by such Commissioners; and said Circuit Judge shall have power to punish for contempt as in other cases of refusal to obey the process or order of the Court.

Sec. 2833. Every officer, agent or employee of any railroad company who shall wilfully neglect or refuse to make and furnish any report required by the Commissioners as necessary to the purposes of this Chapter, or who shall wilfully and unlawfully hinder, delay or obstruct said Commissioners in the discharge of the duties imposed upon them, shall forfeit and pay a sum of not less than one hundred dollars nor more than one thousand dollars for each offense to be recovered in any action in the name of the State as provided in Section 2883.

Sec. 2834. The Commissioners may make and propound to any of the railroad companies of this State any interrogatories additional to those contained in the schedule and report hereinbefore provided, which shall be answered by such companies in the same manner.

Sec. 2835. On the application in writing of a Director or of any person or persons owning one-fiftieth part of the entire paid-in capital stock of any corporation operating a railroad, or the bonds or other evidences of indebtedness of such corporation equal in amount to one-fiftieth part of its

capital stock, the Railroad Commissioners shall examination into the books of said corporation.

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36. The Railroad Commissioners shall further all times, access to the list of stockholders of every on operating a railroad, and may, in their discre- any time, cause the same to be copied, in whole or or their own information or for the information of owning stock in such corporation.

Have access to list of stockholders.

Civ. '02, § 2081.

37. It shall be the duty of said Commissioners necessary to investigate so much of the books and

Investigation of books and papers.

all the railroad companies doing business in this hey may think proper, to ascertain if the rules and

Civ. '02, § 2082.

as as aforesaid have been complied with, and to sonal visitations of railroad offices, stations and

Personal visitations.

ces of business for the purpose of examinations ke rules and regulations concerning such examina-

Rules for examination.

ich rules and regulations shall be observed and ; other rules and regulations as aforesaid; said

oners shall also have full power and authority to all agents and employees of said railroad com-

Examination of agents and employees.

d other persons under oath and otherwise, in order e the necessary information to make just and

rates of freight and passenger tariffs, and to if such rules and regulations are observed or vio-

to make necessary and proper rules and regula- urning such examinations, and which rules and

Obedience to rules.

s herein provided for shall be obeyed and enforced er rules and regulations provided for in this

Delegation of powers.

The powers herein conferred upon the Commis- fix passenger and freight rates, joint and several,

delegated to them by the General Assembly, as e General Assembly itself could exercise them;

riving at their conclusions and decisions as to ust and reasonable rates, and in making examina-

Powers of Commissioners as to witnesses and evidence.

such purpose, they shall have the powers con- Sections 2832, 2833, 2834 and 2835 for securing

nance of witnesses, reports and testimony of officers, mployees of railroad companies, and for the pro-

Penalties.

books and papers; and for violation of the pro- his Section the same penalties are hereby imposed

vided in said Sections, respectively; and such

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Fees of witnesses.

witnesses shall receive the compensation prescribed in Section 2832. Said passenger rates shall not exceed those allowed by Section 2936.

The Court will not take judicial notice of the proceedings, rules or regulations of the Commission.—*Jones Bros. v. Ry.*, 76 S. C., 70; 54 S. C. 666.

Legislative power not delegated to Commissioners.—*Id.*

Railroad Commission given jurisdiction over telephone lines.

1904, XXIV., 496.

Sec. 2838. The Railroad Commission of this State shall have and exercise the same jurisdiction and supervisory powers and control over and concerning all telephone lines, stations and exchanges in this State, and over all persons, firms or corporations owning or operating such telephone lines, stations or exchanges for the transmission of intelligence for hire, that it now has and exercises over and concerning railroads, telegraph and express lines, and the persons, firms, or corporations owning or operating them in this State; and said Commission shall especially have the right and power and it shall be its duty to fix and regulate the rates or tolls to be charged by the owners or operators of all such telephone lines, stations or exchanges, for the transmission of intelligence for hire, and to require reasonable connections to be made and maintained when practicable, between such lines, stations, or exchanges, and to fix and regulate reasonable rates, tolls, or compensation therefor, and also to require reasonable connections to be made and maintained when practicable, between any such lines, stations or exchanges, and the lines or stations of private individuals, firms or corporations desiring such connections and to fix and regulate the rates, tolls or compensation therefor; and also to make and enforce rules and regulations by which all persons, firms or corporations, owning or operating telephone lines, stations, or exchanges in this State for the transmission of intelligence for hire, shall be governed in the conduct of said business: *Provided*, That in cities and towns where franchises have been granted by any city or town, to operate and maintain a telephone exchange or exchanges and the rates and tolls are fixed in any such franchise so granted, nothing herein shall permit any increase in the rates and tolls so fixed for service now furnished whether local or otherwise, except by agreement with the municipal authorities in any such city or town.

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subscribers: *Provided, further,* That except by agreement with the subscribers, no change shall be made in any rates without a hearing by said Commission which had at such time and place as shall be designated Commission most convenient to the parties interested of which the said Commission shall publish a notice at least one newspaper most likely to give notice parties interested, once a week for at least four

39. For the purpose of enforcing and carrying out the provisions of Sections 2838, 2839, 2840 and 2841 making such investigations as may be necessary for the purpose of enabling it to discharge the duties hereby imposed upon it the said Commission is hereby invested with all the powers, and privileges conferred upon it and with all the duties imposed upon it or its members and Railroad Commissioners, by the laws of this State for purposes in regard to railroads, express and telegraph companies and the persons, firms or corporations owning or operating them.

Enforcement
of this Act.

40. Any person, firm or corporation owning or operating any telephone line, stations or exchange in this State for the transmission of intelligence for hire who shall violate any of the provisions of Sections 2838, 2840 and 2841, or fail or refuse to obey any of the orders of the said Commission, shall forfeit and pay as a penalty for the sum of twenty-five dollars per day for each day in default, to be recovered by suit in the name of the State on the relation of any person, firm or corporation, residing in any County in which such violation or default was committed or occur. And the sum so recovered together with the costs of said suit, be paid into the Treasury of the State. It shall be the duty of the Attorney-General and of the Solicitors of the State to prosecute said

Penalty.

41. The persons, firms or corporations owning or operating telephone lines, stations or exchanges in this State for the transmission of intelligence for hire, shall bear their proportion of the salaries of the said Railroad Commission and of the salaries of their Clerk and other assistants and of the expenses of their office along with the several corpora-

Proportion
of expenses.

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tions mentioned in Sections 2821 and 3004, and to that end the Comptroller-General and the fiscal officers named in said Sections shall place all such persons, firms and corporations in the same category as to the pay of the said salaries and expenses as said other corporations, and shall assess and collect their pro rata of said salaries and expenses in the same manner as the pro rata of the said other corporations, and all the duties, requirements, and penalties which the law provides for or against the said other corporations with regard to said salaries and expenses, shall devolve upon and be incurred by every person, firm or corporation owning or operating any telephone line, station or exchange in the State for the transmission of intelligence for hire.

ARTICLE V.

PROVISIONS AS TO DISCRIMINATION AND UNREASONABLE CHARGES.

Sec.	Sec.
2842. Charges of unreasonable rates, extortion.	2858. Connecting roads not to discriminate in receiving freight.
2843. Unjust discrimination prohibited.	2859. Connecting roads not to discriminate in rates of freight.
2844. Charges to be in proportion to distance.	2860. Construction of term "Railroad Company," &c.
2845. Same; exceptions.	2861. Cars to be received and delivered on equal terms.
2846. Further exceptions.	2862. Carriers not to interfere with contracts of shipment.
2847. Continuous carriage.	2863. Penalty.
2848. Itemized bills of lading.	2864. Consignees of coal, etc., may have same reweighed.
2849. Consignee may require settlement by.	2865. Penalty.
2850. Cotton, how classified.	2866. Demurrage not to be charged in such cases.
2851. Commissioners to make rates, regulations, &c.	2867. Scales to be maintained.
2852. Commissioners to make schedules of rates, &c., and penalty for failure to post schedules.	2868. Receiving cars from connecting lines.
2853. Commissioners to fix storage charges on freight.	2869. Through bills of lading to be recognized.
2854. Discrimination and excessive charges prohibited.	2870. Facilities to be furnished for receiving and forwarding freight.
2855. Penalty for.	2871. Shipper to designate route.
2856. Railroad companies to publish freight rates on melons, etc.	2872. Penalty for violation.
2857. Connecting roads not to discriminate in delivering freight.	2873. Interchange of freight.
	2874. Facilities for.

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en companies are required connect tracks. hts of way for such pur- se. ssing one track by an- her. nsfer of cars. en companies may connect acks. nt to use franchise. alty for violation of rules.	Sec. 2883. Remedies for injuries to per- sons. 2884. Duplicate freight receipts to be issued. 2885. Mandamus may issue to en- force this chapter. 2886. Names and residences of di- rectors to be filed. 2881. Connecting roads operated by same company regarded as one.
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2842. If any railroad corporation organized or
business in this State under the Act of corporation,
al law of this State now of force, or which may
be enacted, or any railroad corporation organized,
may hereafter be organized, under the laws of
r State, and doing business in this State, shall
ollect, demand or receive more than a fair and
e rate of toll or compensation for transportation of
s or freight of any description, or for the use and
ation of any railroad car upon its tracks or any of
hes, or upon any railroad within this State which
e right, license or permission to use, operate or
he same shall be deemed guilty of extortion, and
viction thereof shall be fined in a sum not less than
red nor more than one thousand dollars.

Charge of
u n reasonable
rates.

Civ. '02, §
2083.

Declared to
be extortion.

Punishment.

43. If any railroad corporation, as aforesaid, shall
y unjust discrimination in its rates and charges
compensation for transportation of passengers or
of any description, or for the use and transporta-
ny railroad car upon its said road or upon any of
hes thereof, or upon any railroads connected there-
ch it has the right, license or permission to operate
l within this State, the same shall be deemed guilty
; violated the provisions of this Chapter and upon
n thereof shall be fined in a sum not less than one
nor more than one thousand dollars.

Unjust dis-
c r i m i n a t i o n
prohibited.

Civ. '02, §
2084.

Punishment.

l be unlawful for any person so engaged as afore-
erson engaged solely in the shipment or receiving
ty, directly or indirectly, to allow or receive any
rawback or other advantage, in any form, upon
s made or services rendered or received by them
id.

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Charges must
be in propor-
tion to dis-
tance.

Civ. '02, §
2085.

As to charges
for passengers
and freights.

As to dis-
crimination in
charges for
cars.

Sec. 2844. It shall be unlawful for any such person or persons so engaged as aforesaid to charge, collect or receive for the transportation of any passenger or freight of any description upon its railroad for any distance within the State the same or a greater amount of toll or compensation than is at the same time charged, collected or received for the transportation of any passenger of the same class or like quantity of freight of the same class over a greater distance of the same railroad; or to charge, collect or receive at any point upon its railroad a higher rate of toll or compensation for receiving, handling or delivering freight of the same class and quantity than it shall at the same time charge, collect or receive at any point upon the same railroad; or to charge, collect or receive for transportation of any passenger or freight of any description over its railroad a greater amount as toll or compensation than shall at the same time be charged, collected or received by it for the transportation of any passenger of the same class or like quantity of freight of the same class being transported over any portion of the same railroad of equal distance; or to charge, collect or receive from any person or persons a higher or greater amount of toll or compensation than it shall at the same time charge, collect or receive from any other person or persons for receiving, handling or delivering freight of the same class and like quantity at the same time upon its railroad; or to charge, collect or receive from any person or persons for the transportation of any freight upon its railroad a higher or greater rate of toll or compensation than it shall at the same time charge, collect or receive from any person or persons for the transportation of a like quantity of freight of the same class being transported from the same point over equal distances of the same railroad; or to charge, collect or receive from any person or persons for the use and transportation of any railroad car or cars upon its railroad for any distance the same or a greater amount of toll or compensation than is at the same time charged, collected or received from any other person or persons for the use and transportation of any railroad car of the same class or number for a like purpose being transported over a greater distance of the same railroad; or to charge, collect or receive from any person or persons for

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and transportation of any railroad car or cars upon road a higher or greater rate of toll or compensation shall at the same time charge, collect or receive from any person or persons for the use and transportation of any railroad car or cars of the same class or number for the purpose being transported from the same point over the same distance of the same railroad. And all such discriminating rates, charges, collections or receipts, whether made directly or by means of any rebate, drawback or other evasion, shall be deemed and taken against such person or persons so engaged as aforesaid as *prima facie* evidence of the unjust discrimination prohibited by the provisions of this Article.

As to discriminating rates, rebates, draw-backs or evasions.

Construction of Section.

This Section shall not be construed so as to exclude other provisions tending to show any unjust discrimination in freight and passenger rates. The provisions of this Section and the two preceding Sections shall extend and apply to any road, the branches thereof, and any road or roads used by such person or persons so engaged as aforesaid for the right, license or permission to use, operate or conduct any road wholly or in part within this State: *Provided, however,* that nothing herein contained shall be so construed as to exempt such person or persons so engaged as aforesaid from issuing commutation, excursion or thousand mile tickets as the same are now issued by such corporations.

Application of preceding Sections.

Proviso as to issuing certain tickets.

Applicable to interstate commerce.—*R. R. Commissioners v. R. R.*, 20 S. C., 564; *Sternberger v. R. R.*, 20 S. C., 846.

Interstate shipments?—*Frasier v. C. & W. C. Ry. Co.*, 81 S. C., 14; *Hunter v. C. & W. C. Ry. Co.*, 81 S. C., 169; 62 S. E., 13; *K. C. Ry. Co.*, 187 U. S., 617.

45. It shall be unlawful for any person or person engaged in the transportation of property as provided in 2842 of this Chapter, to charge or receive any compensation for carrying, receiving, storing, forwarding or handling articles of the same character and weight on for a shorter than a longer distance in one conveyance; and the road of a corporation shall include any road in use by such corporation, whether owned or leased under a contract or lease by such corporation: *Provided, however,* That nothing in this Chapter contained shall be construed so as to require any corporation or combination

Charges for shorter hauls.

Civ. '02, § 2086.

What a road includes.

Proviso as to competitive points.

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Several roads
of same cor-
poration.Special rates
to manufac-
turing, &c., in-
dustries.

of corporations to regulate their charges for shorter distances by their proportion of through rates between terminal or junctional competitive points: *Provided, further*, That if one corporation should use, operate or otherwise control, wholly or in part, several lines or divisions of hitherto independent railroads within the State, the Commission may in their discretion, conjointly with the said corporations, fix different rates of toll or compensation for freight traffic on each of said hitherto independent lines or divisions: *Provided, further*, That the Railroad Commission, conjointly with the railroad companies, shall have authority to make special rates for the purpose of developing all manufacturing, mining, milling and internal improvements in this State.

What is terminal point?—Steinberger v. R. R., 29 S. C., 510; 7 S. E. 94

Exceptions
as to uniform-
ity in freight
charges.Civ. '02, §
2087.

Sec. 2846. Nothing in this Chapter shall apply to the carriage, receiving, storing, handling, or forwarding of property carried for the United States, or any State thereof, at lower rates of freight and charges than for the general public, or to the transportation of articles free, or at reduced rates of freight, for charitable purposes, or to or from public fairs and expositions for exhibition.

Applies to
continuous or
part continu-
ous carriage.Civ. '02, §
2088.

Sec. 2847. Each and all of the provisions of this Chapter shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in Section 2842 of this Chapter; and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such service are performed or compensation paid by or to one person alone or in connection with another or other persons.

Consignee
entitled to
itemized bill
of lading.Civ. '02, §
2089.

Sec. 2848. Whenever any article or articles of freight shall be shipped to any point within the limits of this State, whether shipped from a point beyond the limits of this State or not, it shall and may be lawful for the consignee or consignees of said articles to demand and receive from the agent or agents of the railroad company delivering the same, and before the payment of any charges upon the same, a full and correct statement of said charges, the class or classes to which each and every of the articles belong, the

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f freight charged for each class and showing the total
to be paid by said consignee or consignees together
the proportion of the same to be paid to each road
which, or any part of which, said freight may have
whether such road be beyond the limits of this
or not: *Provided*, That should such itemized state-
not be incorporated in the way bills the agent or
shall deliver the articles on the payment of freight
procure as soon as possible such required items when
ed. If any errors should then appear, the same shall
mediately collected by such agent or agents.

Agents to
procure item-
ized bill.

Correction of
errors.

for failure to give information required by preceding Section. See
Code.

849. In all cases the railroad company delivering
to consignees shall be required to settle their freight
according to the contract as set forth in the bill of
from the shipping point, and they are hereby for-
to retain the article of freight after the consignee
is ready and willing to comply with the terms of
of lading.

Consignee
may require
settlement;
penalty.

Civ. '02, §
2090.

850. All cotton packed in bales transported by com-
riers within the limits of this State shall be classed as
goods"—that is to say, an article to be weighed, and
for and treated accordingly: *Provided*, That any
carrier, before receiving such cotton for shipment,
re the right to demand from the shipper the weights
several bales thereof, and to adopt the same as the
upon which freight is to be charged; and in case
o recovery shall be had by any shipper for a greater
than the weights so furnished by him.

Cotton, how
classified;
proviso.

Civ. '02, §
2091.

851. The Commissioners elected as hereinbefore
, shall, as provided in the next Section of this
make reasonable and just rates of freight and
r tariffs, to be observed by all railroad companies
siness in this State on the railroads therein, but said
r rates shall not exceed the maximum prescribed
n 2936; they shall make reasonable and just rules
lations to be observed by all railroad companies
siness in this State, as to charges to any and all
r the necessary hauling and delivery of all freights;

Commission-
ers to make
freight and
passenger tar-
iffs.

Civ. '02, §
2092.

And rules
and regula-
tions.

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shall make such just and reasonable rules and regulations as may be necessary for preventing unjust discrimination in the transportation of freight and passengers on the railroads in this State; shall have the power to make just and reasonable joint rates for all connecting roads doing business in this State, as to all traffic or business passing from one of said roads to another, and to require the making of such connection at intersecting points of the schedules of trains as the public convenience may in their judgment demand: *Provided, however,* That before applying joint rates to roads that are not under the management and control of one and the same company the Commissioners shall give thirty days' notice to said roads of the joint rate contemplated and of its division between said roads, and give hearing to roads desiring to object to the same; shall make reasonable and just rates of charges for use of railroad cars carrying any and all kinds of freight and passengers on said railroad, no matter by whom owned or carried, and shall make just and reasonable rules and regulations to be observed by said railroad companies or railroads, to prevent the giving or paying of any rebate or bonus, directly or indirectly, and from misleading or deceiving the public in any manner, as to the real rates charged for freight and passengers: *Provided,* That nothing in this Chapter shall be taken as in any manner abridging or controlling the rates for freight charged by any railroad company in this State for carrying freight which comes from or goes beyond the boundaries of the State, and on which freight less than local rates on any railroad carrying the same are charged by such railroad, but said railroad companies shall possess the same power and right to charge such rates for carrying such freights as they possessed before the passage of this Chapter, and Commissioners shall have full power, by rules and regulations, to designate and fix the difference in rates of freight and passenger transportation to be allowed for shorter and longer distances on the same or different railroads, and to ascertain what shall be the limit of longer and shorter distances.

Joint rates.

Connecting
schedules.Notice to be
given to com-
panies.

Hearing.

Rates for
use of cars.Rebates and
bonuses.Proviso as
to inter-state
commerce.Long and
short hauls.

Regulations as to hours for ticket office to be open.—Hall v. S. C. Ry. Co. 25 S. C., 564.

Schedule rates.—Johnson v. Ry., 73 S. C., 39; 52 S. E., 644.

2852. The said Railroad Commissioners are hereby authorized and required to make for each of the railroad companies doing business in this State, as soon as practicable a schedule of just and reasonable rates of charges for transportation of passengers and freight and cars on all of said railroads, and said schedule shall, in suits brought against any such railroad corporations wherein involved the charges of any such railroad corporation for transportation of any passenger or freight or cars, constitute just discrimination in relation thereto, be deemed sufficient evidence in all of the Courts of this State as sufficient evidence of charges for the transportation of passengers and freight and cars upon the railroads; and said Commissioners shall from time to time, and as often as circumstances require, change and revise said schedule. When any change shall have been made or revised it shall be the duty of all such railroad companies to post at all their principal stations a copy of said schedule for the protection of the people: *Provided*, That the schedules thus prepared shall not be taken as evidence as herein provided unless the schedules have been prepared and published as aforesaid by all the railroad companies now organized under the laws of this State or that may be organized at the time of the publication. All such schedules purporting to be prepared and published as aforesaid shall be received and shall prevail in all such suits as *prima facie* the schedules of said Commissioners without further proof than the production of the schedule desired to be used as evidence, with a certificate of the Railroad Commission that the same is a true and correct copy of the schedule prepared by them for the railroad company or corporation therein named, and that the same has been duly published as required by law: *Provided*, That the railroad company shall first be given notice of any change or revision of the schedule and shall first be given to the railroad company to be made before the same shall go into effect.

Any railroad corporation which shall fail to post at any of its principal stations a copy of the schedule of rates as provided in this Section, shall be liable to a penalty of one hundred dollars for each and every day in which it shall fail to post the schedule, to be recovered by any citizens who will sue

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Commissioners to make schedules of rates; as evidence; schedules to be posted; proviso.

Civ. '02, § 2093.

Penalty for failing to post schedules.

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therefor, one half of such penalty to go to the State, the other half to the citizen suing for the same.

Action for penalty.—Johnson v. S. A. L. Ry., 73 S. C., 36; 52 S. E., 644

R. R. Commission to fix storage charges on freight.

Civ. '02, § 2094.

Sec. 2853. Power is hereby conferred on the Railroad Commission of South Carolina, and they are required to fix and prescribe a schedule of maximum rates and charges for storage of freight made and charged by railroad companies doing business in this State, and to fix at what time after the reception of freight at place of destination such charges of storage shall begin, with power to vary the same according to the value and character of the freight stored, the nature of the place of destination, and residence of consignee, and such other facts as in their judgment should be considered in fixing the same.

All the provisions of the Act creating said Railroad Commission, and Acts amendatory thereof, prescribing the procedure of said Commission in fixing freight and passenger tariffs, and hearing complaints of carriers and shippers, and of altering and amending said tariffs, shall apply to the subject of fixing and amending rates and charges for storage, as aforesaid.

Sec. 2094 does not delegate legislative power.—Jones Bros. vs. Ry., 76 S. C., 67; 56 S. E., 666.

Discrimination and excessive charges prohibited.

Civ. '02, § 2095.

Sec. 2854. No railroad company shall make or retain, directly or indirectly, any charge for storage of freight greater than that fixed by the Commission for each particular storage, nor shall they discriminate directly or indirectly by means of rebate, or any other device in such charges between persons.

Penalty for discrimination or excessive charges.

Civ. '02, § 2096.

Sec. 2855. If any railroad company shall violate the provisions of Section 2854, either by exceeding the rates of storage prescribed, or by discriminating, as aforesaid, the person or persons so paying such overcharge, or subject to such discrimination, shall have the right to sue for the same in any Court of this State having jurisdiction of the claim, and shall have all the remedies, and be entitled to recover the same penalties and measures of damages as is prescribed in the case of overcharge of freight rates, upon making like demand as is prescribed in such case, and after like failure to pay the same.

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2856. It shall be the duty of all railroad companies in business in this State, to publish during the months of January and February of each year, the rates of freight on melons and canteloupes per car load per twenty-four hundred pounds and upwards, from the various points in the State to the different markets of the country, which shall not be increased during the current year. Any company violating the provisions of this Section charging rates higher than those so published, shall forfeit to the party injured double the amount of the freight, to be recovered in any Court of competent jurisdiction.

Freight rates
on melons,
etc., to be
published.

1903, XXIV.,
82.

2857. It shall not be lawful for any railroad company chartered by this State, to discriminate against any company which may connect with it, either at one terminal station, or at any intermediate point on its line, where said companies have stations and agents established, by neglecting or refusing to deliver with due diligence on said connecting road, in the yard or on the track, all cars wholly or partly loaded with freight to points on said connecting road, or to points on its line; but in all cases where freight is to be delivered on said connecting road to complete its transportation, such delivery shall be made by the railroad which brought the freight to the connecting point, and no additional charge shall be made therefor: *Provided, however,* That said delivering railroad may demand of its connections payment of all freight which have accrued thereon, on or before delivery of the freight on the tracks or in the yards of its connecting road.

Connecting
railroads not
to discriminate.

Civ. '02, §
2097.

2858. It shall not be lawful for any railroad company chartered by this State, to discriminate in favor of or against any railroad company which may connect with it, at one of its terminal stations, or at an intermediate point on its line where said companies have stations and agents established, as against any other railroad company which may connect with it, at the same station or point, by either to receive freight for shipment, or to issue bills of lading, at equal rates of freight for the same any one given destination, reached by any or all connecting roads, or their connections, for which

Not to dis-
criminate by
refusal to re-
ceive freight.

Civ. '02, §
2098.

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freight is received, or through bills of lading are issued, to be forwarded by any other of such connecting roads at the same point: *Provided, however,* If any of said connections shall refuse to transport freight from its own terminus to the ultimate destination of said freight at the same rate as is charged by any other connections at the same point, then the initial road shall be released from the provisions of this Section, and the said connecting road shall not be entitled to the benefit of its provisions.

Not to discriminate in rates of freight.

Civ. '02, § 2099.

Sec. 2859. It shall not be lawful for any railroad company chartered by this State, to discriminate in its rates of freight in favor of or against any railroad company which may connect with it, either at one of its terminal stations, or at any intermediate point on its line; but in all cases the charges on freight of the same character, having the same original point of shipment and the same destination, shall be uniform to and from all lines making connection with the said railroad at the same point.

Construction of term "railroad company." What shall not operate as a bar to this Chapter.

Civ. '02, § 2100.

Sec. 2860. In the construction of the three preceding Sections, the term railroad company chartered by this State shall be held to mean each railroad company holding its franchise under a separate charter granted by this State: and no ownership or shares of the capital stock of one corporation by another corporation, nor any lease, contract or other agreement between corporations or individuals shall operate as a bar to the provisions of this Chapter: but each corporation so chartered shall deal with all its connections at any one point on the same terms, and shall afford the like usual facilities for the interchange of freight between all of its connections at the same point; and any contract, combination, joint ownership or joint management contrary to the provisions of this Article shall be null, void and of no effect.

Railroads to receive cars from other roads on equal terms; provision as to rebates, fraud, &c.

Civ. '02, § 2101.

Sec. 2861. All railroad companies in this State shall at the terminus of any intermediate station, be required to switch off and deliver to the connecting road having the same gauge, in the yard of the latter, all cars passing over their lines, or any portion of the same, containing goods or freights consigned, without rebate or deception, by any route, at the option of the shipper, according to custom or published rates, to any point over or beyond such

road; and any failure to do so, with reasonable diligence shall render the railroad company so failing liable to the owner or consignee for all damages that may result therefrom with interest and all costs and disbursements. It shall be the duty of the defendant in any suit brought under this Section to set up as a defense that the plaintiff has accepted a rebate or practiced fraud or deception touching the rate, and it shall be a complete reply to such defense if the plaintiff prove that defendant or its agents has allowed a rebate or practiced like fraud or deception, from the competing points against the rival line.

2862. If any person, firm or corporation shall have been authorized to deliver to any other person, firm or corporation within this State certain commodities, no common carrier doing business in this State, over whose road such commodities would be transported before delivery to the consignee, shall interfere with the fulfillment of such contract between such shipper of freight and the consignee; nor shall undertake to control or direct, nor in any wise interfere with, the shipment of such commodities by the party or parties who has contracted for the same. To this end no common carrier doing business in this State, over whose road such commodities pass in transportation before delivery to the consignee in this State, when furnishing cars to the shippers shall have the right to designate to what consignees loaded in such cars shall be consigned, or in any way interfere with or seek to control the use of such cars by the shipper in making shipment to such consignees as he may desire to ship to, or be under contract to ship to.

Common carriers not to interfere with contracts of shipment.

2863. Any common carrier violating the provisions of this Section or Section 2862 shall be liable to such damages, including special and punitive damages, as may be recovered in an action maintained in the Courts of this State by the shipper or proposed consignee, bringing suit for the recovery of the terms of this Section and Section 2862, together with the damages sustained by him in the same action, actual damages sustained by him through such act of the common carrier, as well as any punitive damages, and may also recover in the same action punitive damages as may be allowed to him.

Penalty.

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Consignees
of coal, etc.,
may have
same reweigh-
ed by Com-
missioner.

1906, XXV.,
117.

Sec. 2864. Any consignee of coal or other articles to be delivered to him in car-load lots by any common carrier at any point within the limits of this State where such common carrier maintains track scales, shall have the right to demand that such coal or other articles be reweighed before delivery to him by said common carrier; and it shall be the duty of such common carrier, within forty-eight hours after such demand, to reweigh the same and deliver to such consignee a written or printed, or partly written and partly printed, statement, showing the true weight thereof.

Penalty.

Sec. 2865. Any common carrier refusing or failing to comply with any of the provisions of Section 2864 shall forfeit the right to any freight incurred through transportation of such coal or other article, or in the event that such freight shall have been prepaid, shall be liable as a penalty to the said consignee for the amount of freight so prepaid to be recovered by suit in any Court of competent jurisdiction.

Demurrage
not to be
charged in
such cases af-
ter demand.

Sec. 2866. No demurrage or other similar charges shall be made by any common carrier against a consignee making the demand specified in Section 2864, between the time of the making of such demand and the time of delivery by such common carrier to said consignee of the statement required in said Section.

Common car-
riers to main-
tain scales un-
der certain
conditions.

Sec. 2867. It shall be the duty of any common carrier doing business in this State, upon demand of any party or any industrial enterprise having a sidetrack adjacent to and used in connection with the business of the said party or industrial enterprise, to erect and maintain on the said sidetrack suitable scales for reweighing the said coal or other articles, in car-load lots: *Provided, however,* The said party or industrial enterprise shall agree and become liable to the said common carrier to pay the amount incurred by said common carrier in the erection and maintenance of the said scales. In such event, it shall be the duty of the said common carrier to reweigh such coal or other articles delivered in car-load lots to the said party or industrial enterprise upon said sidetrack, as provided for in Section 2864. Upon refusal so to weigh, the said common carrier shall be liable for the same penalties heretofore provided in Sections 2862, 2863, 2864, 2865 and 2866.

868. All railroad corporations organized or doing business in this State under the Act of Corporation or General Laws of this State now of force or which may hereafter be enacted, and all railroad corporations organized or which hereafter organized under the laws of any other State and doing business in this State, shall be compelled to deliver to and handle at each of their junctions or terminal points in this State all cars or trains of a connecting line bound to or from any point upon its own line or upon the same terms and same charges, either by truck or by way of its proportion of the entire freight charged upon said cars, trains or freight, that it charges upon its own line either under the law or by contract or agreement with any other railroad connecting with it at said junction or terminal point where it performs the same service for each of said railroads, and shall furnish the same facilities to each of said railroads.

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Railroads to
receive cars
from connect-
ing lines.

Civ. '02, §
2102.

869. No railroad doing business in this State shall be allowed to refuse to issue or recognize a through bill of lading between competitive points when issued over or by any railroad with which it connects unless it issues and recognizes the same where goods are shipped to or from said point over any other competitive railroad with which it connects in reaching said point, and that the said railroad shall not charge nor receive for said goods passing over its lines, more than the law of local freight, or a division of a through bill of lading, a greater sum when said goods are shipped over one line of railroad with which it connects than it charges or receives when said goods are shipped by any other line of railroad with which it connects: *however*, That nothing herein contained shall prevent any such railroad from demanding payment of its freight in advance of performing said service of carrying said goods, or from limiting its liability to losses or damage sustained on its own line by a clause inserted in said bill of lading.

Must recog-
nize through
bills of lading,
when.

Civ. '02, §
2103.

870. Every railroad company doing business in this State, and every working railway which form part of a continuous line of railway communication shall afford all due and reasonable facilities for receiving and forwarding by such railways all the traffic, freight or passengers

Facilities for
receiving and
forwarding
freight to be
furnished.

Civ. '02, §
2104.

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To other
railroads.

arriving by the other, without any unreasonable delay and without any preference or advantage, or prejudice or disadvantage, and so that no obstruction may be offered to the public desirous of using such railways as continuous line of communication, and so that all reasonable accommodation may, by means of the railways of the several companies, be at all times afforded to the public in that behalf.

The above mentioned facilities and benefits shall be afforded as well to other railroads as to the public.

Shipper to
have the right
to designate
route.Civ. '02, §
2105.

Sec. 2871. All persons shipping from, into, within or through this State shall have the right to designate the route or routes by which said goods shall be shipped, and it shall be unlawful for any corporation or person other than the holder of the bill of lading to vary said routing so designated, or to ship the same by any other route, or to receive said goods if so diverted, unless the route so designated shall be interrupted or incapable of being used at the time by strike or casualty, preventing the running of trains thereof.

Cannot apply to interstate shipments.—*Lowe v. S. A. L. Ry.*, 63 S. C., 243 41 S. E., 297.

Railroads to
Penalty for
violations.Civ. '02, §
2106.

Sec. 2872. Any transportation company violating the provisions of any of the Sections 2868, 2869, 2870 and 2871 wilfully or knowingly shall be subject to a suit for each violation thereof at the instance of any person or owner of goods, or other persons or corporations, and upon proof of such violation the said party instituting the same shall be entitled to recover a penalty of five hundred dollars for such violation. Each violation of said Sections shall constitute a separate cause of action.

Interchange
freights.Civ. '02, §
2107.

Sec. 2873. It shall be unlawful for any railroad chartered or operated in this State to refuse to pay any carrier on traffic delivered at any of the terminal or junction points such freight charges as may have accrued from original point of shipment to the terminal or junction points, wherever delivery may be made, and to which at current rate the carrier making such delivery and previous carriers interested may be justly entitled to whenever the same may be collected by the road making the delivery to consignee: *Provided*, That the total amount of freight charges does not exceed any amount equal to one-half the market value of the

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ty involved: *And also provided*, That this does not on property which, from its nature, is classed as "paid freight," or which may be destined for points stated and conducted as prepaid stations, of which due notice has been given: *Provided, further*, That such companies shall afford to such railroad company or companies the delivery to the consignee the same advantages and facilities, in the handling and interchange of business, as any other railroad at the same point.

2874. Railroads subject to this Article shall afford reasonable, proper and equal facilities for the interchange of traffic between its own road and other carriers, and at terminal or junction points, for the receiving, loading and delivering of freight and passengers to and from points on its line or lines beyond, and shall not discriminate in its rates or charges between or against any connecting carriers.

Facilities for interchange to be furnished.

Civ. '02, § 2108.

2875. Whenever the lines of railroad of two or more corporations may now, or hereafter, enter or pass through the corporate limits of any city or town in said State, the corporations owning the same are hereby required to build connecting tracks as may be necessary to effect an interconnection of such lines for the purpose of interchanging and delivering cars and freight in car load lots; the reasonable cost of construction and maintenance of a connecting track to be borne by said railroad corporations, whose tracks are so connected, in such ratable proportion as shall be determined and adjusted by the Board of Commissioners of this State. Failure to comply with the provisions of this Section for six months after the date of this Section, or for six months after the building of a new line of railroad into any such city or town, shall subject each and every such corporation so failing, to a penalty of twenty-five dollars per day, to be recovered in an action by any citizen of such city or town, one-half for his benefit and the other half for the benefit of the State of South Carolina: *Provided*, That any one of such railroad corporations may relieve itself from liability to such penalty by giving notice in writing within thirty days from the date when it shall become liable to the operations of this Section, to the other corporations so liable thereto, of its

When railroad companies required to connect tracks.

Civ. '02, § 2109.

Penalty.

How penalty may be avoided.

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Power of
Railroad Com-
mission.

Rights of
way for con-
necting track.

Civ. '02, §
2110.

Crossing one
track by an-
other—power
of Railroad
Commission-
ers in relation
thereto.

Civ. '02, §
2111.

readiness to proceed with the construction of such connect-
ing track; and if the other corporation or corporations so
notified, shall fail to unite in such construction within ten
days after such written notice, the corporation giving such
notice may proceed to the construction of such track, and
may recover of each and every other line so connected
such proportion of the costs of such construction as shall
be determined by the Railroad Commissioners; but the
recovery thereof shall not operate to discharge such delin-
quent corporation or corporations from liability to the
penalty above imposed up to the time of the full completion
of such connecting track: *Provided, however,* That the Rail-
road Commissioners shall have, and are hereby invested
with, the power to suspend the operation of the requirements
of this Section at such junctional points as are hereinbefore
specified when it can be shown, upon a full and fair hearing
before them, that the erection and operation of such con-
nection would be unreasonable and unnecessary.

Sec. 2876. For the purpose of building such track, the right
of way may be taken over and across the property of either
either or all of such railroad corporations, and by and with
consent of the Council of such city or town, such connecting
track may be laid across or along any of the streets of such
city or town, or the public grounds thereof: *Provided,* That
such compensation shall be made to abutting land owners
as they may be entitled to by law. In case it should be
necessary for such connecting track to cross any private
property other than such as above specified, then the right
of condemnation is hereby given under the provisions of
this Code upon the subject, to be exercised upon the applica-
tion of either or all of such railroad corporations.

Sec. 2877. In building such connecting line the right is
granted, under the supervision of the Railroad Commis-
sioners, to run across or along any existing track at grade,
and any railroad corporation building a new line into such
city or town after the construction of such connecting track
shall be required to connect its line with such track, and to
pay to each and every such corporation owning such track
a part of the costs thereof, which said part of the costs
shall be fixed and determined by the Railroad Commis-
sioners.

2878. It shall be the duty of all railroad corporations whose tracks shall be so connected to transfer to any railroad track any car or cars upon demand of the consignee or owner of the freight in said car or cars, at transfer charges as may be fixed by the Railroad Commission, not to exceed one dollar per car in any case; empty cars to be returned free. Failure to comply with the written order of the consignee or owner within twenty-four hours, shall subject the railroad corporation so failing to a penalty of one dollar per hour so long as such failure may continue, to be deducted from the freight bill of such owner or consignee, or to be recovered by an action of law, unless it be found by the jury to be reasonably impracticable for the railroad corporation to make such transfer within said

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Cars to be transferred — fees for.

Civ. '02, § 2112.

Penalty for failing to transfer.

2879. When any railroad company owning, leasing or operating a railroad in or through any part of this State shall have its terminus or any part of its track at or near the terminus of any other railroad in this State having the same gauge, or shall cross the same, said railroad company shall have the right, and is hereby authorized, to join its tracks by safe and proper switches, with said other railroads, and for this purpose shall have the right to enter upon the right of way of said other railroad: *Provided*, That if the railroad with which such connection is proposed shall refuse to pay the expenses for the same the railroad proposing the connection shall pay them.

Authorized to join tracks.

Civ. '02, § 2113.

Expense.

2880. Should any railroad company refuse to allow connecting switches put in its line, when requested under section 2879, it shall and may be lawful for the other road to use such connection to proceed to procure the right to use so much of the franchise of the former as may be necessary for such purpose, in the manner now provided by law for the rate property taken for use of any railroad.

Right to use franchise.

Civ. '02, § 2114.

2881. All connecting railroads doing business in this State, and under the management or control, by lease, partnership, association or otherwise, of one and the same firm, corporation or association, shall for purposes of transportation, in applying freight and passenger tariffs, be considered as constituting but one and the same road, and the rate shall be computed as upon parts of one and

Connecting roads to operate as one, when operated by same company.

Civ. '02, § 2115.

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the same road unless otherwise specified by the Railroad Commission.

Regarded as one road for purpose of license tax.—*So. Ry. Co. v. City Council of Greenville*, 45 S. C., 602 ; 23 S. E., 953.

Violation of rules.	<p>Sec. 2882. If any railroad company doing business in this State, by its agents or employees, shall be guilty of a violation of the rules and regulations provided and prescribed by said Commissioners, and if, after due notice of such violation given to the principal officer thereof, ample and full recompense for the wrong or injury done thereby to any person or corporation, as may be directed by said Commissioners, shall not be made within thirty days from the time of such notice, such company shall incur a penalty for each offense of not less than one thousand dollars nor more than five thousand dollars, to be fixed by the presiding Judge. An action for recovery of such penalty shall lie in any Court in the State where such violation has occurred or wrong has been perpetrated, and shall be in the name of the State of South Carolina. The Commissioners shall institute such action through the Attorney-General or any of the Solicitors of this State.</p>
Civ. '02, § 2116.	
After notice. Recompense to be made.	
Penalty for failure.	
Action for recovery.	
How instituted.	
Injuries to persons.	<p>Sec. 2883. If any railroad company doing business in this State shall, in violation of any rule or regulation provided by the Commissioners aforesaid, inflict wrong or injury on any person, such person shall have a right of action and recovery for such wrong or injury in the County where the same is done in any Court having jurisdiction thereof, and the damages to be recovered shall be the same as in actions between individuals, except that in cases of wilful violation of law such railroad companies shall be liable to exemplary damages: <i>Provided</i>, That all suits under this Chapter shall be brought within twelve months of the commission of the alleged wrong or injury.</p>
Civ. '02, § 2117.	
Recovery.	
Damages.	
Limitation of time.	
Duplicate receipts.	<p>Sec. 2884. All railroad companies in this State shall on demand issue duplicate freight receipts to shippers in which shall be stated the class or classes of freights shipped, the freight charges over the road giving the receipt, and so far as practicable, shall state the freight charges over other roads that carry such freight. When the consignee presents the railroad receipt to the agent of the railroad that delivers such freight, such agent shall deliver the articles</p>
Civ. '02, § 2118.	
Delivery of goods.	

d on payment of the rate charged for the class of
ts mentioned in the receipt. If any railroad company
violate the provisions of this Article, such railroad
ny shall incur a penalty to be fixed and collected as
ed in Section 2882.

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Penalty.

2885. If any railroad company shall neglect or
to comply with the provisions of this Chapter or with
es and regulations prescribed by said Commissioners
the limits of their authority, such company shall be
to a writ of *mandamus*, to be issued by any Justice
Supreme Court, or Circuit Judge, upon application
Commissioners, or a majority of them, to require com-
with said laws or said rules and regulations, and
to comply with said writ of *mandamus* shall be
able as for contempt; and for any wilful violation of
said laws, or failure to comply with the requirements
rules or regulations, the Court may award such
d counsel fees, on the return of said writs, and after
iberation thereon, as may be just.

Mandamus to
require com-
pliance.

Civ. '02, §
2119.

Punishment
for disobedi-
ence.

Costs and
counsel fees.

nus to enforce order.—Railroad Commissioners v. A. C. L. Ry. Co.,
135; 50 S. E., 641.

2886. All railroad companies owning or operating
of railroad situated in whole or in part within the
of this State shall deposit with the Railroad Com-
ers a list containing the names and residences of the
nt and Board of Directors of the railroad company
or operating the said line of railroad.

Names and
residences of
President and
Directors.

Civ. '02, §
2120.

ARTICLE VI.

LATIONS AS TO RUNNING TRAINS ON SUNDAY AND CARRIAGE OF ANIMALS.

ains prohibited from run-
ing on Sunday; exceptions.
tain trains may run.
layed by accident, &c., may
un to usual point of rest.
alty for violation.

Sec.

2891. Cars must not be overloaded
with animals; confinement
of, limited; to be cared for;
penalty; proviso.

2892. Construction of certain words,
&c.

2893. Shippers of live stock to be
furnished certain informa-
tion.

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Trains prohibited from running on Sunday; exceptions.

Civ. '02, § 2121.

Section 2887. It shall be unlawful for any railroad corporation owning or controlling railroads operating in this State to load or unload, or permit to be loaded or unloaded, or to run or permit to be run, on Sunday, any locomotive cars or trains of cars moved by steam power, except as hereinafter provided, and except to unload cars loaded with animals.

What trains may run.

Civ. '02, § 2122; 1908, XXIV., 83.

Sec. 2888. Said corporations or persons may run on Sunday trains laden exclusively with vegetables and fruits: and on said day, in any and every month, their regular mail trains and such construction trains as may be rendered necessary by extraordinary emergencies other than those incident to freight or passenger traffic, and such freight trains as may be in transit which can reach their destination by six o'clock in the forenoon: *Provided*, That the Railroad Commissioners shall have the power (upon proper application made to them for the purpose by the officers of the church or religious denominations in charge of the place where such services are to be held) to authorize and permit the running of trains on any Sunday in the year for the transporting of passengers to and from religious services: *Provided*, The application for the permit and the authority granted must both be in writing and made a part of the records of said Railroad Commissioners.

Delayed by accidents, &c., may run to usual point of rest.

Civ. '02, § 2123.

Sec. 2889. Any train running by a schedule in conformity with the provisions of this Chapter, but delayed by accident or other unavoidable circumstance, may be run until it reaches the point at which it is usual for it to rest upon a Sunday.

Penalty for violation.

Civ. '02, § 2124.

Sec. 2890. For a wilful violation of the provisions of the three preceding Sections the railroad company so offending shall forfeit to the State five hundred dollars, to be collected in any Court of competent jurisdiction.

Cars not to be overloaded with animals; confinement of; to be cared for; proviso.

Civ. '02, § 2125.

Sec. 2891. No railroad company in the carrying or transporting of animals shall overload the cars, nor permit the animals to be confined in cars for a longer period than twenty-eight consecutive hours without unloading the same for rest, water and feeding, unless prevented from so unloading by storm or other accidental causes. In estimating such confinement, the time during which the animals have been confined without rest on connecting roads from which they

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received shall be included, it being the intent of this act to prohibit their continuous confinement beyond the period of twenty-eight hours, except upon contingencies before stated. Animals so unloaded shall be properly watered and sheltered during such rest by the owner or person having custody thereof, or in case of his neglect in so doing, then by the railroad company transporting the same, at the expense of the owner or the person having custody thereof; and the said company shall, in said case, have a lien upon said animals for food, care and custody thereof, and shall not be liable for any detention of such animals as is authorized by this Chapter. Any company, owner, or agent of such animals, who shall fail to comply with the provisions of this Section, shall, for each and every offence, be liable for and forfeit and pay a penalty of not more than fifty, nor more than five hundred dollars, to be paid to the State Treasury: *Provided, however,* That when animals shall be carried in cars in which they can and do receive proper food, water, space, and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

Constitutional, and the company cannot relieve itself of the duties imposed by special contract.—*Crawford v. So. Ry. Co.*, 56 S. C., 136; 34 S. E., 107; *Br v. R. R. Co.*, 52 S. C., 37; 29 S. E., 687. It requires the carrier to furnish food and water the stock in transit where the owner neglects to do so. It requires the carrier to furnish the owner with facilities to feed and water the stock.—*Ib.*

The burden of proof is on the carrier to show compliance with the statute. *Br v. R. R. Co.*, *supra*; *Swindler v. Hilliard*, 2 Rich., 286; *Wallingford v. R. R. Co.*, 26 S. C., 258; 2 S. E., 19; *Baker v. Brinson*; 9 Rich., 201; *Br v. R. R. Co.*, 39 S. C., 55; 17 S. E., 512.

2892. In Section 2891 the word "animal" or "animal" shall be held to include all brute creatures; and the word "owner," "person," and "whoever," shall be held to include corporations as well as individuals; and the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned, or employed by such corporations, shall be held to be the knowledge and knowledge of such corporations.

2893. Any railroad company doing business in South Carolina shall be required to furnish the owner, or shipper, or agent, full information concerning the shipment, receipt and delivery of live stock when en route, and on

"Animals,"
&c., construed.
Civ. '02, §
2126.

Railroad
companies re-
quired to fur-
nish shippers
of live stock
certain infor-
mation.

1906, XXV,
114.

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said company's line or in said company's possession. If company cannot make time published in schedule they must, whenever as much as three hours behind schedule time, wire owner and agent at destination extent of and cause of delay, and advise him of expected time of arrival. Upon failure to furnish such information, and upon failure to give shipper benefit of best connection as published in schedule, railroad company shall pay a fine not more than twenty-five dollars: *Provided*, That nothing herein contained shall interfere with the transmission of train orders: *Provided, further*, That in the event of failure upon the part of any common carrier to give the information herein required, it shall be incumbent upon such common carrier affirmatively to show that such failure was due to the necessary use of the wire, or wires, for transmission of train orders.

ARTICLE VII.

REGULATIONS FOR THE PREVENTION OF ACCIDENTS AND CONCERNING THE RESPONSIBILITY THEREFOR.

SEC.

- 2894. Brakes and brakemen on certain trains.
- 2895. Trains to be equipped with tools.
- 2896. Lamps and stoves regulated.
- 2897. Formation of trains.
- 2898. Crossing other tracks, when to stop.
- 2899. Signals to be given at crossings.
- 2900. Signs at crossings.
- 2901. Certain cars not to be left at crossings.
- 2902. Trains to stop at stations.
- 2903. Responsibility for damages from fire.
- 2904. New railroads, when and how opened.
- 2905. Notice and reports of accidents.
- 2906. Liens of judgments, for certain injuries.
- 2907. Remedy for injuries at crossings.
- 2908. County Supervisor to examine crossings.

SEC.

- 2909. Power as to unsafe crossings.
- 2910. Flagman may be stationed at.
- 2911. Appeal from County Supervisor to Railroad Commissioners.
- 2912. To comply with decision of civil engineer.
- 2913. County Supervisors to report.
- 2914. County Supervisors to keep record.
- 2915. County Supervisors to see sign boards maintained.
- 2916. Penalty for neglect of duty.
- 2917. Railroad companies to maintain bridges.
- 2918. Transportation of explosive compounds.
- 2919. To be packed and marked.
- 2920. Punishment for violation.
- 2921. Search warrant to issue.
- 2922. Compounds forfeited when seized.
- 2923. Damages for injury by.
- 2924. "Explosive compounds" defined.

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ion 2894. Every railroad corporation shall cause a
and sufficient brake to be attached to every car used
its railroad for the transportation of passengers, and
ry car used for the transportation of freight, except
heeled freight cars used only for that purpose; and
ause to be stationed on every passenger train trusty
ilful brakemen, equal in number at least to one for
two cars in the train, except on passenger trains,
power brakes are used, and one such brakeman upon
st car of every freight train, which must always be
ed with a good and sufficient brake.

Brakes shall
be attached.

Civ. '02, §
2127.

Brakemen
stationed.

Section requires brakes to gondola and flat cars having eight wheels.—
C. & S. Ry. Co., 55 S. C., 90; 32 S. E., 828. As to mixed passenger
ght trains and brakemen required, see Joyner v. Ry. Co., 26 S. C.,
E., 52.

absence of testimony to it contrary, a railroad company will be pre-
o have complied with this section.—Joyner v. R. R. Co., 26 S. C.,
E., 52. In order that the company be held liable, the failure to
must be the proximate cause of the injury.—Adkins v. R. R., 27 S. C.,
E., 849. Injury to passenger from defective coupling.—Stuckey v.
60 S. C., 237; 38 S. E., 416. Foreign cars.—Youngblood v. S. C. &
Co., 60 S. C., 9; 38 S. E., 282. Wallingford v. R. R. Co., 26 S. C.,
E., 19.

v. S. A. L. Ry., 67 S. C., 222; 45 S. E., 186.

2895. Every railroad corporation shall equip each
trains, for use in case of accident, with such tools and
ances as the Railroad Commissioners may direct.

Trains shall
be equipped
with tools.

Civ. '02, §
2128.

2896. No passenger cars on any railroad shall be
l by naphtha, or by any illuminating oil or fluid,
n part of naphtha, or wholly or in part from coal or
um, or other substance or material which will ignite
nperature of less than three hundred degrees Fahren-
And all stoves shall be securely fastened to their

Naphtha, &c.,
of less than
300 degrees
Fahrenheit,
shall not be
used to light
cars.

Civ. '02, §
2129.

Any railroad corporation which violates the pro-
of this Section shall forfeit a sum not exceeding five
d dollars.

Stoves shall
be fastened.

Penalty for
violation.

2897. In forming a passenger train, baggage, or
, or merchandise, or lumber cars shall not be placed
of passenger cars.

Formation of
trains.

Civ. '02, §
2130.

2898. Whenever any railroad crosses the track of
er railroad, except where interlocking and signaling
levices are in use, it shall be the duty of the engineer,
on in control of the train, besides giving the signals
d to be given near all crossings, to bring the train

Crossing
other tracks;
when to stop.

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to a full or complete stop before crossing the said track; the same rule to apply to the running of a locomotive by itself without a train.

Creech v. C. & W. C. R. R. Co., 66 S. C., 535; 45 S. E., 86.

Signals to be given at crossings.

Civ. '02, § 2132.

Sec. 2899. A bell of at least thirty pounds weight and a steam whistle shall be placed on each locomotive engine, and such bell shall be rung, or such whistle sounded, by the engineer or fireman, at the distance of at least five hundred yards from the place where the railroad crosses any public highway or street or traveled place, and be kept ringing or whistling until the engine has crossed such highway or street or traveled place; and if such engine or cars shall be at a stand-still, within a less distance than one hundred rods of such crossing, such bell shall be rung, or such whistle sounded, for at least thirty seconds before such engine shall be moved; and shall be kept ringing or sounding until such engine shall have crossed such public highway or street or traveled place.

See Sec. 2907, *post*. Constitutionality of Statute.—Kaminitsky v. R. R. Co., 25 S. C., 53.

Starting car standing across public way without giving statutory signal.—Burns v. So. Ry. Co., 61 S. C., 404; 39 S. E., 567; Littlejohn v. Same, 49 S. C., 12; 26 S. E., 967; Littlejohn v. R. & D. Ry. Co., 45 S. C., 181; 22 S. E., 789. Neglecting to give the statutory signals is negligence per se; Bowen v. So. Ry. Co., 58 S. C., 227; 36 S. E., 590; Hankinson v. R. R., 41 S. C., 19; 19 S. E., 206; Strother v. R. R. Co., 47 S. C., 381; 25 S. E., 272; Smith v. Ry. Co., 53 S. C., 121; 30 S. E., 697; Petrie v. R. R. Co., 29 S. C., 303; 7 S. E., 515; White v. R. R. Co., 30 S. C., 218; 9 S. E., 96; Turbyfill v. Ry., 83 S. C., 325; 65 S. E., 278.

The Statute only applies to "traveled places."—Hale v. R. R. Co., 34 S. C., 293; 13 S. E., 537; Neely v. R. R. Co., 33 S. C., 136; 11 S. E., 636.

But in an action at common law for negligence testimony as to failure to give the statutory signals at a crossing a mile distant from scene of accident was held competent.—Mason v. So. Ry. Co., 58 S. C., 70; 36 S. E., 440; Mack v. R. R. Co., 52 S. C., 323; 29 S. E., 905.

A traveled place is a place where persons are both accustomed to and have a right to travel.—Hale v. R. R. Co., 34 S. C., 293; 13 S. E., 537; Barber v. R. R. Co., 34 S. C., 450; 13 S. E., 630; Hankinson v. Ry. Co., 41 S. C., 20; 19 S. E., 206; Risinger v. Ry. Co., 59 S. C., 433; 38 S. E., 1; Strother v. R. R. Co., 47 S. C., 376; 25 S. E., 272.

Track held not to be a traveled place under the facts in Smalley v. Ry. Co., 57 S. C., 243; 35 S. E., 493.

Mere failure to slacken speed of train when approaching a crossing is not, in the absence of special circumstances, negligence.—Zeigler v. N. E. R. R. Co., 7 S. C., 402; Fletcher v. Ry. Co., 57 S. C., 205; 35 S. E., 515.

Duty prior to statute.—Murray v. R. R. Co., 10 Rich., 227.

Although the crossing be such as not to come under the Statute the failure to give the signals may be negligence.—Fletcher v. Ry. Co., 57 S. C., 205; 35 S. E., 515.

Failure to give signals may show negligence.—Davis v. Ry., 68 S. C., 458; 47 S. E., 723; 63 S. C., 370, 577; 41 S. E., 370, 577; Boggero v. Ry., 64

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104; 41 S. E., 819; Bamberg v. Ry., 72 S. C., 389; 51 S. E., 988.
 uring gates.—Weaver v. Ry., 71 S. C., 66; 56 S. E., 657. Liability
 der.—Walker v. Ry., 77 S. C., 164; 57 S. E., 764.
 imony as to omission of statutory signals responsive to charge of
 sness.—Osteen v. Southern, Car. Div., 76 S. C., 368; 57 S. E., 196.
 dence of negligence.—Betchman v. S. A. L. Ry., 75 S. C., 73; 55 S. E.,
 ooper v. Ry., 65 S. C., 214; 43 S. E., 682.
 itive damages for failure to give signals.—Cole v. Ry., 75 S. C., 160;
 E., 126.
 t is "traveled place" is question for jury.—Ruddell v. S. A. L. Ry.,
 C., 290; 55 S. E., 528.
 inuous ringing or blowing.—Dawdy v. Ry., 75 S. C., 308; 78 S. C.,
 5 S. E., 444; 58 S. E., 980.
 not apply to dogs hunting near track.—Fowles v. S. A. L. Ry., 73
 306; 53 S. E., 534.
 ult sustained because of plaintiff's intestate's gross negligence in
 ting to cross in front of approaching train.—Dawdy v. A. C. L. Ry.
 S. C., 374; 58 S. E., 980. See Hughes v. Southern Ry., 82 S. C.,
 S. E., 5
 cipal ordinances.—Dyson v. Ry., 83 S. C., 354; 65 S. E., 344.

2900. Every railroad corporation shall cause signs to Sign at crossings.
 aced, and constantly maintained, alongside of each Civ. '02, § 2133.
 road or street where the same is crossed by the rail-
 on the same level. Said sign shall be elevated so as to
 sily seen by travelers, and on each side of the same
 be printed in large letters the words "Railroad Cross-
 But this Section shall not apply to streets in cities,
 and villages unless the corporation be required to put
 h sign by the officers having charge of such streets. Inscription thereon. Ex-ception.

v. R. R. Co., 30 S. E., 218; 9 S. E., 96.

2901. It shall be unlawful for any railroad section Certain cars not to be left near crossings.
 or any person in charge of or connected with any 1902, XXIII., 1055.
 car or lever car to remove same from any railroad
 and continue same stationary within fifty yards of any
 crossing other than at any regular railroad section
 except when necessary to avoid an approaching train,
 en in charge of employees engaged in actual work
 uch crossing, and then only for such a period as is
 ry to avoid such train or to perform such work.
 person violating the provisions of this Section shall
 onviction be fined not exceeding fifty dollars or be
 ned not exceeding thirty days.
 railroad company shall be liable for damages for Liability for damages.
 rse frightened by reason of its employees violating
 ivisions of this Section.

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Trains stop
at stations.Civ. '02, §
2134.

Sec. 2902. Every railroad company in this State shall cause all its trains of cars for passengers to entirely stop upon each arrival at a station, advertised by such company as a station for receiving passengers upon such trains, for a time sufficient to receive and let off passengers.

Duty to assist passenger.—Madden v. Ry. Co., 35 S. C., 381; 14 S. E. 713; Simms v. R. R. Co., 27 S. E., 268; 3 S. E., 301.

Negligence in stopping at station.—See Cooper v. Ga., C. & N. Ry., 61 S. C., 345; 39 S. E., 543; 56 S. C., 91; 34 S. E., 16; Appleby v. S. C. & G. Ry., 60 S. C., 48; 38 S. E., 237; Glover v. Ry. Co., 57 S. C., 228; 35 S. E. 510; Johnson v. So. Ry. Co., 53 S. C., 303; 31 S. E., 212; Gillman v. R. R. Co., 53 S. C., 210; 31 S. E., 224; Brodie v. Ry. Co., 46 S. C., 203; 24 S. E. 180.

Failure to stop.—Martin v. R. R. Co., 32 S. C., 592; 10 S. E., 960.

Carrying passengers beyond destination.—Samuels v. R. & D. Ry. Co., 35 S. C., 493; 14 S. E., 943; Thomas v. C., C. & A. Ry. Co., 38 S. C., 465.

Stopping electric car on signal from passenger.—Ussery v. Aiken-Augusta Ry., 79 S. C., 209; 60 S. E., 527.

Does not apply to flag stations.—Roundtree v. Ry., 73 S. C., 273; 53 S. E. 424; Milhous v. Ry., 72 S. C., 442; 52 S. E., 41.

This is only for benefit of passengers.—Carter v. C. & W. C. Ry. Co., 64 S. C., 316; 42 S. E., 161; Creech v. Ry., 66 S. C., 535; 45 S. E., 86.

Belated passengers.—Pickett v. Southern Ry., 69 S. C., 453; 48 S. E., 466.

Sufficient time.—Shealey v. Ry., 67 S. C., 65; 45 S. E., 119; Giles v. Ry., 79 S. C., 176; 60 S. E., 433.

Damages for failure to stop.—Caldwell v. A. C. L. Ry., 75 S. C., 74; 55 S. E., 131.

Ejecting through mistake at wrong station.—Ford v. Ry., 75 S. C., 236; 55 S. E., 448. Failure to stop at flag station.—Berley v. S. A. L. Ry., 63 S. C., 411; 65 S. E., 456; Davis v. A. C. L. Ry. Co., 83 S. C., 66; 64 S. E. 1015.

Injury to passenger boarding train.—Talbert v. C. & W. C. Ry., 75 S. C., 186; 55 S. E., 138. Carrying by station.—Carter v. Southern Ry., 75 S. C., 355; 55 S. E., 771; Trapp v. Southern Ry., 72 S. C., 343; 51 S. E., 919.

Excursion trains.—Oliver v. Ry., 65 S. C., 44; 43 S. E., 307.

Passenger injured in alighting from train before it stopped.—Hollisworth v. Southern Ry., 72 S. C., 114; 51 S. E., 560; Smith v. Southern Ry., 80 S. C., 4; 61 S. E., 205.

Passenger's own negligence.—Hunter v. A. C. L. Ry., 72 S. C., 336; 51 S. E., 860. Person intending to take passage.—24 L. R. A., 521; Ry. Co. v. Jennings, 54 L. R. A., 827; 18 L. R. A. (N. S.) 763.

Responsible
for damages
by fire.Civ. '02, §
2135.

Sec. 2903. Every railroad corporation shall be responsible in damages to any person or corporation whose buildings or other property may be injured by fire communicated by its locomotive engines, or originating within the limits of the right of way of said road in consequence of the act of any of its authorized agents or employees, except in any case where property shall have been placed on the right of way of such corporation unlawfully or without its consent, and shall have an insurable interest in the property upon its route for which it may be so held responsible, and may procure insurance thereon in its own behalf.

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embraces any kind of property, real or personal, which may be injured by—Dent v. S. B. R. R. Co., 61 S. C., 330; 39 S. E., 529; Dean v. Ry. Co., S. C., 504; 33 S. E., 579; and extends to property beyond right of way.—Thompson v. R. R. Co., 24 S. C., 366. Insurance considered.—/b. It attaches without regard to negligence.—Thompson v. R. R. Co., 24 S. C., 366; Rogers v. R. R. Co., 31 S. C., 378; 9 S. E., 1059; Gregory v. Layton, 36 S. E., 93; 3. E., 352.

he liability for fires occasioned by negligence exists without reference to statute.—McCrady v. R. R. Co., 2 Strob., 356.

he statutory liability only extends to fire communicated from its own fires, and not to those communicated from the engines of its lessors, lessees, or of a third party.—Rogers v. R. R. Co., 31 S. C., 378; 9 S. E. 1059; Carter v. R. R. Co., 41 S. C., 86; 19 S. E., 197; Lipfield v. C., C. & A. Ry. Co., 41 S. C., 285; 19 S. E., 497.

he issue as to title may be raised by the pleadings, and when raised must be determined by competent testimony.—Mayo v. R. R. Co., 40 S. C., 517; 19 S. E., 73. May be shown by adverse possession.—Busby v. F., C. & P. Ry. Co., 45 S. C., 312; 23 S. E., 51.

Constitutional.—McCandless v. Railroad Co., 38 S. C., 103; 16 S. E., 429.

Measure of damages.—Dent v. S. B. Ry. Co., 61 S. C., 330; 39 S. E., 529. Prorogation of insurance company.—Pelzer Mfg. Co. v. Sun Fire Ins. Co., 31 S. C., 267; Aetna Insurance Co. v. C. & W. C. Ry., 76 S. C., 101; 58 S. E., 788.

Proviso in lease of warehouse does not protect against storer of goods.—Brown v. C. & W. C. Ry. Co., 79 S. C., 469.

Result.—Brown v. C. M. Ry., 64 S. C., 365; 42 S. E., 179. Constitutional.—Brown v. C. M. Ry., 67 S. C., 481; 46 S. E., 283.

Liability under.—Wilson v. Southern Ry., 65 S. C., 423; 43 S. E., 964.

Presumption as to ownership of engine.—Bush v. Ry., 63 S. C., 96; 40 S. E., 1029.

Goods deposited at owner's "sole risk."—German-American Insurance Co. v. Southern Railway, 77 S. C., 467; 58 S. E., 337.

Statements of agent as to ownership of engine.—Stoud v. Ry., 19 S. C., 10 S. E., 963.

Liability of fire originating from act of employe, while not in performance of his duty.—Southern Ry. v. Power Fuel Co., 12 L. R. A. (U. S.), 472. Presumption of negligence in common law action.—Hutto v. S. A. L. Ry., 31 S. C., 567; 62 S. E., 835.

2904. No railroad, branch, or extension of a railroad shall hereafter be opened for public use until the Railroad Commissioners, after an examination, certify that all ^{New railroad; when and how opened.} relating to the construction thereof have been complied ^{Civ. '02, § 2136.} and that the road appears to be in a safe condition for operation, unless the said Commissioners shall, after the ten days written notice to them by the said railroad company in each proposed opening, fail to make such examination and issue certificate.

2905. Every railroad corporation shall cause immediate notice of any accident which may occur on its road, ^{Accidents; notice to be given; penalty.} attended with injury to any person, in such cases of accident attended with any injury to any person, as the Railroad Commissioners may by rules and regulations adopted

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by them, require the giving of such notices, to be given to a physician most accessible to the place of accident and to the Railroad Commissioners, by telegraph, telephone or such other means as may be the quickest under the circumstances, at the same time that notice is given the officials of the road on which the accident occurred, and shall furnish immediate transportation for the Commissioners over its line to the place of accident, free of expense to the Commissioners, and if the Commissioners use another railroad to reach the place of accident, the corporation on whose line the accident occurs shall pay the expense of transportation thereon, and shall also give notice in like manner of any accident falling within any description of accidents of which said Commissioners may by general regulation require notice to be given. For each omission to give such notice the corporation shall forfeit a sum not exceeding five hundred dollars.

Adkins v. R. R. Co., 27 S. C., 71 ; 2 S. E., 849.

Lien of judgments railway corporations, &c., for personal injury or injury to property.

Civ. '02, § 2138.

Sec. 2906. Whenever a cause of action shall arise against any railroad or street railway corporation for personal injury or injury to property sustained by any person, and such cause of action shall be prosecuted to judgment by the person injured, or his or their legal representatives, said judgment shall relate back to the date when the cause of action arose, and shall be a lien as of that date upon the income, property and franchise of said corporation, enforceable in any Court of competent jurisdiction by attachment or levy and sale under execution, and shall take precedence and priority of payment of any mortgage, deed of trust or other security given to secure the payments of bonds made by said railroad or street railway company: *Provided*, Any action brought under this Section shall be commenced within twelve months from the time that said injury was sustained.

Priority of judgment over mortgages, &c.

Priority of judgment over railroad mortgage.—Southern Ry. Co. v. Banknight, 70 Fed. Rep., 442 ; 30 L. R. A., 823.

Injuries at crossings. Penalty for.

Civ. '02, § 2130.

Sec. 2907. If a person is injured in his person or property by collision with the engines or cars of a railroad corporation at a crossing, and it appears that the corporation neglected to give the signals required by this Chapter, and that such neglect contributed to the injury, the corporation

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all be liable for all damages caused by the collision, or to fine recoverable by indictment, as provided in the preceding Section, unless it is shown that, in addition to a mere want of ordinary care, the person injured, or the person having charge of his person or property, was, at the time of the collision, guilty of gross or wilful negligence, or was acting in violation of the law; and that such gross or wilful negligence or unlawful act contributed to the injury.

See Sec. 2809, *ante*, and note.

Liability as to negligence.—Proctor v. So. Ry. Co., 61 S. C., 170; 39 S. E.,

The remedy given is cumulative and does not supersede the remedy at common law.—Kaminitsky v. R. R., 25 S. C., 53; Spires v. R. R. Co., 47 S. C., 24 S. E., 992; Burns v. Ry. Co., 61 S. C., 404; 39 S. E., 567.

Under the statute there must be an actual collision.—Kinard v. R. R. Co., 51 S. C., 517; 18 S. E., 119. "At the crossing" or "on the crossing," which must be a traveled place.—Hutto v. S. B. R. R. Co., 61 S. C., 495; 39 S. E., 136; Hale v. R. R. Co., 34 S. C., 293; 13 S. E., 537; Neely v. R. R. Co., 33 S. C., 136; 11 S. E., 636. One attempting to cross between cars standing at the crossing is within the statute.—Littlejohn v. Ry. Co., 49 S. C., 12; 18 S. E., 967.

It is not an action at common law such as Murray v. R. R. Co., 10 Rich. 27, on the question of negligence failure to give the statutory signals at crossing near the place of injury may be shown in evidence.—Mack v. R. R. Co., 52 S. C., 323; 29 S. E., 905; Mason v. R. R. Co., 53 S. C., 70; 36 S. E.,

A traveled place is one which persons are accustomed, and have a right, to use.—Hale v. R. R. Co., 34 S. C., 293; 13 S. E., 537; Barber v. R. R. Co., 51 S. C., 450; 13 S. C., 630; Hankinson v. R. R. Co., 41 S. C., 20; 19 S. E., 136; Risinger v. R. R. Co., 59 S. C., 433; 38 S. E., 1; Strother v. R. R. Co., 47 S. C., 376; 25 S. E., 272.

The omission to give the statutory signal need not be the proximate or efficient cause of the injury, the company is liable if it contributes in any way thereto.—Wragg v. R. R. Co., 47 S. C., 105; 25 S. E., 76; Strother v. R. R. Co., 47 S. C., 375; 25 S. E., 272. See Duncan v. Greenville Co., 73 S. C., 256; 53 S. E., 367.

In order to bar recovery the gross or wilful negligence of the plaintiff must be a proximate or efficient cause.—Bowen v. Ry. Co., 58 S. C., 222; 36 S. E., 590; Cooper v. Ry. Co., 56 S. C., 91; 34 S. E., 16. And the burden of proof to show this gross negligence of plaintiff is on the defendant.—Nohrden v. R. R. Co., 59 S. C., 100; 37 S. E., 228; Petrie v. R. R. Co., 29 S. E., 319; 18 S. E., 515.

The existence of such negligence is a question for the jury.—Carter v. R. R. Co., 9 S. C., 20; Crouch v. R. R. Co., 20 S. C., 495; Kaminitsky v. R. R. Co., 25 S. C., 59; White v. R. R. Co., 30 S. C., 218; 9 S. C., 96; Strother v. R. R. Co. & Ga. R. R. Co., 47 S. C., 375; 25 S. E., 272; Littlejohn v. R. & D. Ry. Co., 45 S. C., 181; 22 S. E., 789.

As to damages recoverable.—Hart v. R. R. Co., 33 S. C., 427; 12 S. E., 9; Barber v. S. C. & Ga. R. R. Co., 47 S. C., 375; 25 S. E., 272.

Duty to look and listen.—Bombey v. Ry., 72 S. C., 389; 51 S. E., 988; v. A. C. L. Ry. Co., 78 S. C., 379; 58 S. E., 980; Griskell v. Southern Ry., 51 S. C., 193; 62 S. E., 205.

As negligence on part of person injured.—Weaver v. Southern Ry., 76 S. C., 67; 65 S. E., 657; Osteen v. Southern Ry., Carolina Div., 76 S. C., 77; 7 S. E., 196.

Personal injury.—Harbart v. Ry., 78 S. C., 538; 59 S. E., 644.

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Contributory negligence.—Hughes v. Southern Ry., 82 S. C., 45; 61 S. E., 1079; 63 S. E., 5.

What is not traveled place.—Haltiwanger v. Ry., 64 S. C., 23; 41 S. E., 810; Ruddell v. S. A. L. Ry., 75 S. C., 290; 55 S. E., 528; Goodwin v. A. C. L. Ry. Co., 82 S. C., 330; 64 S. E., 242.

Traveled place established by adverse use.—Kirby v. Ry., 63 S. C., 494; 41 S. E., 765. Duty of traveler on highway.—Edwards v. Southern Ry., 63 S. C., 271; 41 S. E., 458.

County Supervisors to examine crossings.

Civ. '02, § 2140.

Sec. 2908. The County Supervisors of the respective Counties in this State shall hereafter, at least once in every year, examine all the railroad crossings of the public highways in this State outside of the corporate limits of cities, towns, and villages; and if they find that any of the said crossings, within the right of way of any railroad company, are unsafe as to the lives of persons, or as to the protection of property, they shall forthwith give written notice thereof to any officer or agent of the railroad within said County.

Power as to unsafe crossings.

Civ. '02, § 2141.

Sec. 2909. Said County Supervisors, in said notices, shall point out the location of the crossings considered by them unsafe, and shall indicate how and in what manner such crossing shall be constructed so as to secure safety; and shall have power to require such construction to be made within sixty days.

Flagmen to be stationed.

Civ. '02, § 2142.

Sec. 2910. The Railroad Commissioners shall have authority, upon the application of the County Supervisors, if they deem it necessary, to require any railroad corporation to have a stationary flagman at any crossing, the importance of which may demand it.

May appeal from Railroad Commissioners. Appointment of Civil Engineer.

Civ. '02, § 2143.

Sec. 2911. The said railroad company, after receiving such notice, and within ten days after such reception, may apply to the Circuit Court of the respective Circuit in which such crossing is situated, or to a Judge thereof if the Court be not in session, and claim a re-examination of the said locality, and a revision of the action of the said Railroad Commissioners, and the said Court or Judge, as the case may be, shall appoint forthwith some civil engineer, not connected with any railroad, to examine into the matter forthwith, and he may either affirm the demand of said Railroad Commissioners, or modify it, and his determination shall be final.

Sec. 2912. All railroad companies shall, within the time indicated as aforesaid, by the Railroad Commissioners or

County Supervisor, as the case may be, or within the time given by the said civil engineer to said corporation upon examination, maintain and construct said crossing in the manner demanded of them by said Railroad Commissioners. County Supervisor, as the case may be, or civil engineer, station a flagman, if such should be required, at the locality where such has been found necessary, as aforesaid.

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To comply with decision of Civil Engineer.

Civ. '02, § 2144.

Sec. 2913. The County Supervisor shall make a report of his yearly examination to the Clerk of the Court of Common Pleas for such County, which is to be laid before

County Supervisors to report examinations. Compensation.

Civ. '02, § 2145.

said Court, together with a copy of all notices given by him as aforesaid; and they shall be allowed compensation for the County for any services rendered under this Chapter at the same rate per day as is now provided for other services rendered by them; and the said civil engineer, appointed as aforesaid, shall also be paid a reasonable compensation for his services by the said County, if the recommendations of such County Supervisor are not in whole or part adopted; but if such recommendations be so adopted, the railroad company shall pay the compensation of the engineer.

Sec. 2914. The County Supervisor shall keep a record of the duties performed, and copies of notices served under the provisions of this Chapter, which shall become a part of the records of his office.

To keep record of duties performed.

Civ. '02, § 2146.

Sec. 2915. It shall be the especial duty of the County Supervisors to see that sign-boards, as prescribed in this Chapter, are at all times properly put up at railroad cross-

Sign boards; duty of County Commissioners.

Civ. '02, § 2147.

Sec. 2916. If any of the County Supervisors neglect or fail to comply with any of the provisions of this Chapter applicable to County Supervisors, the County Supervisor offending shall be liable to be indicted for neglect of duty, and on conviction, fined in a sum not less than one hundred dollars nor more than five hundred dollars, and as a part of the judgment his office shall be declared vacant.

Penalty for neglect of duty.

Civ. '02, § 2148.

Sec. 2917. Every railroad corporation shall, at its own expense, construct, and afterwards maintain and keep in repair, all bridges, with their approaches or abutments, when it is authorized or required to construct over or under a turnpike road, canal, highway, or other way; and any

Railroads to maintain bridges, &c.

Civ. '02, § 2149.

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city or town may recover of the railroad corporation whose road crosses a highway or town way therein, all damages, charges and expenses incurred by such city or town by reason of the neglect or refusal of the corporation to erect or keep in repair all structures required or necessary at such crossing; but if, after the laying out and making of a railroad, the County Commissioners have authorized a turnpike, highway, or other way, to be laid out across the railroad, all expenses of and incident to constructing and maintaining the turnpike or way at such crossing shall be borne by the turnpike corporation, or the County, city, town or other owner of the same.

The width of bridges not prescribed.—*Rembert v. S. C. Ry. Co.*, 31 S. C. 309; 9 S. E., 968.

Snipes v. A. C. L. Ry. Co., 76 S. C., 207; 56 S. E., 959; *Thompson v. S. A. L. Ry.*, 78 S. C., 386; 58 S. E., 1094, overruling *Brown v. Ry.*, 57 S. C. 484; 35 S. E., 735.

Transportation of explosive compounds; Railroad Commissioners to fix maximum.

Civ. '02, § 2150.

Sec. 2918. No railroad corporation, or other association, copartnership, person or persons, engaged in the transportation of passengers within this State, shall knowingly transport within the territorial limits of this State, or transport into such limits for sale, storage, or use therein, any explosive compound in quantities exceeding the amounts hereinafter provided for, in any vehicle containing passengers, or in any vehicle attached to any railroad train or vehicle conveying passengers, nor in any case, unless the said explosive compounds be plainly and legibly marked with the names of such compounds, and the words "*Explosive—Dangerous.*" It shall be the duty of the Railroad Commissioners, from time to time, to make such rules fixing the maximum amounts of various explosive compounds which may be so carried in any public vehicle, or in a railroad train containing passengers, or in a vehicle attached to such train. The said rules shall also define the method of packing such compounds to ensure the greatest safety, and shall prescribe how the same shall be carried as freight on railroads, steamboats, and by common carriers.

To be packed, marked, &c.

Civ. '02, § 2151.

Sec. 2919. No person shall deliver for transportation to any railroad corporation, street railway company, or other association, copartnership, persons or person engaged in the transportation of passengers within this State, or take or place upon or in any car, boat, or other vehicle of any such cor-

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ation, company, association, copartnership, or person, with intent that the same shall be carried or transported in such car, boat, or other vehicle, any explosive compound mentioned in this Chapter, unless the same is packed and marked as herein provided, and notice of the dangerous nature thereof is expressly given to the agent, servant, or person, to whom it is delivered, or to the agent, servant, or person, having at the time the management and control of such car, boat, or other vehicle in or upon which the same is to be carried or transported. And any common carrier may decline to receive to transport any such explosive compound in any manner whatever.

Sec. 2920. Whoever knowingly violates or knowingly causes or permits the violation of any provision of the two preceding Sections (2918, 2919), or knowingly transports or causes or permits the transportation of any explosive compound, in any manner other than in conformity with the orders made by the Railroad Commissioners, shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the State prison exceeding five years.

Punishment
for violations.Civ. '02, §
2152.

Sec. 2921. Upon complaint made under oath to a Magistrate, that the complainant has probable cause to believe, or does believe, that an explosive compound is had, kept, or to be found, in any city, town, or other place within the jurisdiction of such Magistrate, by any railroad corporation, contrary to law, a warrant may issue, directed to the Sheriff of the County, or his deputy, or to any Constable of such city or town, commanding him to enter any building, vehicle, or other vessel specified in the warrant, and there make diligent search for and seize such explosive compound, and make return of his doings to said Magistrate forthwith.

Magistrate
may issue
search war-
rant for.Civ. '02, §
2153.

Sec. 2922. Any explosive compound had, kept, or transported contrary to the provisions of this Chapter, and seized under the preceding Section, may be adjudged forfeited without due notice and hearing, and may be ordered to be destroyed in such manner as the Court or Magistrate may direct.

Forfeited
when seized.Civ. '02, §
2154.

Sec. 2923. Any person who shall suffer injury by the possession of any explosive compound, while the same is being kept or transported contrary to the provisions of this

Damages for
injury by.Civ. '02, §
2155.

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Chapter, or the ordinances, rules, or by-laws made in conformity to it, may recover damages for the injury thus sustained, in an action against the parties so violating the provisions of this Chapter, or the ordinances, rules or by-laws made in conformity therewith.

Term of.

Civ. '02, §
2156.

Sec. 2924. By the words "explosive compound," as used in this Chapter, shall be understood gun-cotton, nitro-glycerine, or any other compound of the same; any fulminate, or, generally, any substance intended to be used, by exploding or igniting the same, to produce a force to propel missiles or to rend apart substances, except gunpowder.

ARTICLE VIII.

REGULATIONS FOR THE ACCOMMODATION, CONVENIENCE AND PROTECTION OF PASSENGERS AND IN RESPECT TO MERCHANDISE.

Sec.

2925. Accommodations to be furnished for passengers.

2926. Separate coaches for whites and blacks.

2927. Exceptions.

2928. Penalty for violation.

2929. When non-observance of law may be excused.

2930. Violations by railroads, penalty.

2931. Railroad Commissioners to regulate schedules.

2932. Penalty for failure to obey orders.

2933. Fare for passengers.

2934. Baggage checks.

2935. Bicycles to be deemed baggage.

Sec.

2936. Waiting rooms at stations.

2937. Commissioners may require depots built.

2938. Bulletins as to trains behind time.

2939. Notice of change of schedules.

2940. Officers to wear badges.

2941. Police powers of railroad officers.

2942. Passengers may be ejected for disorderly conduct.

2943. Receipts for freight.

2944. Liability of connecting carriers.

2945. Merchandise to be forwarded according to directions.

2946. Cars and engines not to be attached within certain times.

Accommodation for passengers; penalty.

Civ. '02, §
2157.

Section 2925. Every railroad corporation shall furnish reasonable accommodations for the convenience and safety of passengers; and for every wilful neglect to provide the same shall forfeit not less than five nor more than twenty dollars, to be recovered in an action against such corporation.

This duty extends to "persons who are on the premises to welcome the coming or speed the parting guests."—*Islar v. Ry. Co.*, 57 S. C., 336; 35 S. E., 583.

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Passengers on freight trains assume the incident risks.—*Steele v. So. Ry.*, 55 S. C., 389; 33 S. E., 509. Negligence in requiring passenger to change cars.—*Oliver v. Ry. Co.*, 55 S. C., 584; 33 S. E., 584. Dangerous premises.—*Izlar v. Ry. Co.*, *supra*; *Johns v. C. C. & A. Ry. Co.*, 39 S. C., 162; S. E., 698.

Duty toward passengers.—*Taber v. S. A. L. Ry.*, 81 S. C., 317; 62 S. E., 1; *Anderson v. S. C. & G. R. R. Co.*, 81 S. C., 1; 77 S. C., 434; 61 S. E., 96; 58 S. E. 149; *Hasseltine v. So. Ry. Co.*, 75 S. C., 141; 55 S. E. 142; *Franklin v. R. R. Co.*, 74 S. C., 334; 54 S. E., 578.

Alighting from or boarding trains.—*Sevier v. So. Ry.*, 82 S. C., 311; 64 S. E., 891; *Norton v. Ry.*, 83 S. C., 26; 64 S. E., 962; *Horn v. So. Ry.*, 78 S. C., 67; 58 S. E., 963; *Smith v. So. Ry.*, 80 S. C., 1; 61 S. E., 205; *Rich- lson v. Ry. Co.*, 79 S. C., 535; 61 S. E., 83.

Johnson v. Ry. Co., 53 S. C., 206; *Madden v. Ry. Co.*, 35 S. C., 384; *Willingworth v. Ry. Co.*, 72 S. C., 114; 51 S. E., 560; *Crosby v. S. A. L. Ry.*, 81 S. C., 24; 61 S. E., 1064; *Dubose v. Ry. Co.*, 81 S. C., 271; 62 S. E., 106.

Duty to person assisting passenger to board.—*Cooper v. Ry. Co.*, 78 S. C., 562; 59 S. E., 704.

Passenger changing cars.—*Oliver v. Ry. Co.*, 55 S. C., 584. Duty continues until passenger leaves station.—*Taylor v. A. C. L. R. R. Co.*, 78 S. C., 552; 59 S. E., 641. Who are passengers.—*McCarter v. Traction Co.*, 72 S. C., 134; 51 S. E., 545; *Kirkland v. Ry. Co.*, 79 S. C., 273.

Rules as to transacting passenger business.—*Funderburg v. Ry. Co.*, 81 S. C., 149; 61 S. E., 1075.

"Reasonable" accommodations a question for jury.—*Anderson v. R. R. Co.*, 81 S. C., 1; 61 S. E., 1096.

As to presumption from injury to passenger.—*Anderson v. R. R. Co.*, 77 S. C., 434; 58 S. E., 149; 81 S. C., 1; *Brown v. R. R. Co.*, 83 S. C., 53; 64 S. E., 961; *Sutton v. So. Ry.*, 82 S. C., 345; 64 S. E., 401.

Davis v. Ry. Co., 83 S. C., 66; 64 S. E., 1015. Dangerous premises.—*Izlar v. Ry. Co.*, 57 S. C., 336; *Johns v. Ry. Co.*, 39 S. C., 162.

Passenger out of his proper place.—*McLean v. R. R. Co.*, 81 S. C., 100; 61 S. E., 900, 1071.

Passenger on freight train.—*McLean v. R. R.*, *supra*; *Steele v. So. Ry.*, 55 S. C., 389.

Sec. 2926. All railroads and steam ferries, and railroad companies engaged in this State as common carriers of passengers for hire, shall furnish separate coaches or cabins for the accommodation of white and colored passengers: *Provided*, Equal accommodations shall be supplied to all persons, without distinction of race, color or previous condition, in such coaches or cabins: *Provided, further*, That first class coaches and cabins shall be provided with a compartment at each end of such coaches or cabins; said compartments shall be provided with seats for three or more persons; on one compartment shall be printed the words, "For Females," and on the other, "For Males."

Railroad companies to furnish separate coaches for white and blacks.

Quality of accommodations.—*Smith v. Chamberlain*, 38 S. C., 549; 17 S. E., 371.

Sec. 2927. All railroad companies operating passenger trains or coaches, by steam, within or through this State,

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All steam
railroads to
equip coaches
with cinder
deflectors.

1908, XXV.,
1052; 1909,
XXVI., 119.

are hereby required to put cinder deflectors that will, in the judgment of the Railroad Commission, effectually keep cinders from engines entering the cars, upon all windows of passenger coaches, so as to protect passengers when windows are raised.

Any railroad company refusing or neglecting to comply with this Section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than five hundred nor more than one thousand dollars for each coach not screened as required by this Section: *Provided*, It shall be the duty of the Railroad Commission to see that this Section is enforced.

This Section shall not apply to railroads of only forty or less miles in length.

Meals not
to be furnish-
ed white and
colored pas-
sengers in
same room at
station eat-
ing houses.

1906, XXV.,
76.

Sec. 2928. No persons, firms or corporations, who or which furnish meals to passengers at station restaurants or station eating houses, in times limited by common carriers of said passengers, shall furnish said meals to white and colored passengers in the same room, or at the same table, or at the same counter.

See Criminal Code for punishment.

Exceptions.

Civ. '02, §
2159.

Sec. 2929. The provisions of Sections 2928 to 2932 shall not apply to nurses on trains, nor to narrow gauge roads, or branch lines, nor roads under forty miles in length, or to relief trains in case of accident, or to through vestibule trains not intended or used for local travel, nor to regular freight trains with a passenger coach attached for local travel, nor to officers or guards transporting prisoners, nor to prisoners or lunatics being so transported.

Penalty for
officer or em-
ployee violat-
ing.

Civ. '02, §
2160.

Sec. 2930. It shall be unlawful for the officers or employees having charge of such railroad cars as are provided for by this Chapter to allow or permit white and colored passengers to occupy the same car except as herein permitted and allowed.

When law
may not be ob-
served.

Civ. '02, §
2161.

Sec. 2931. In case the coach for either white or colored passengers should be full of passengers, and another coach cannot be procured at the time, then the conductor in charge of the train shall be, and he is hereby, authorized to set apart so much of the other coach as may be necessary to accommodate the passengers on said train.

Sec. 2932. Should any railroad or railroad company, its agents or employees, violate the provisions of the last four sections, such railroad or railroad company shall be liable to a penalty of not more than five hundred dollars nor less than three hundred dollars for each violation, to be collected by suit of any citizen of this State, and the penalty recovered shall, after paying off proper fees and costs, go to the general fund of the State Treasury.

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Violations
by railroads,
&c., punished;
how.Civ. '02, §
2162.

Action by citizen barred in one year.—*Sturkle v. Southern Ry.*, 71 S. C., 3; 50 S. E., 782.

Sec. 2933. It shall be unlawful for any railroad company doing business in this State as a common carrier, to use any car for the purpose of carrying passengers, without first providing at least one spittoon for every two seats in each car.

Spittoons on
passenger
cars.1902, XXIII.,
1056.

If any railroad company violate the provisions of this section, such railroad company shall forfeit the sum of twenty-five dollars for each offense, to be recovered by any citizen of a County through which the railroad passes.

Sec. 2934. It shall be the duty of the Railroad Commissioners, within thirty days after the passage of this Section,

Railroad
Commissioners to regu-
late schedule
of passenger
trains.Civ. '02, §
2163.

and from time to time, to examine into the schedules of all the railroads in this State for the carriage of persons or passengers, with a view to ascertain if said roads can reasonably make close connection with intersecting roads; and wherever, in their opinion, such close connection can be made without injustice or material injury to such road or roads, they shall make the appropriate orders to effect the same. And, the better to secure such connections, they may require all persons, associations or corporations operating on any railroad or railroads (except such as may be in the hands of receivers) to run at least one unmixed daily passenger train each way, over such railroads or railroads, and may likewise require such persons, associations or corporations to furnish to the traveling public facilities for passage over such railroads twice each way daily.

For the foregoing purposes, said Commissioners shall have power to summon witnesses and take testimony, and any railroad shall have the right of appeal, as in other cases from appeal from inferior Courts.

Powers of
Railroad Com-
missioners.

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Forfeiture
for failure to
obey orders.Civ. '02, §
2164.

Sec. 2935. Any railroad in this State refusing to obey any order of the Railroad Commissioners made under this Chapter shall forfeit not less than the sum of five hundred dollars nor more than two thousand dollars, to be recovered by the suit of said Commissioners in a suit in the Court of Common Pleas, which sum, if recovered, shall go to the general fund of this State.

Passenger
rates on
railroads.1903, XXIII.,
85; 1908,
XXV., 1047.

Sec. 2936. The rate for transportation of passengers on all railroads to which the provisions of this Chapter shall apply, shall not exceed three cents per mile for every mile traveled, and such railroad shall not be required to have second-class coaches or to sell second-class tickets: *Provided, however,* That any railroad not over five miles in length and operated independently, may be allowed by the Railroad Commission to charge and receive five cents per mile for the transportation of passengers.

Attempting to evade payment of fare is a misdemeanor. See Crim. Code. As to the payment of excess charge where ticket is not bought prior to the passage of above act. See *Moore v. C. & G. R. Co.*, 38 S. C., 1; 16 S. E., 781; *Fulmer v. Ry. Co.*, 67 S. C., 252; 45 S. E., 196; *Kibler v. So. Ry. Co.*, 62 S. C., 252. Legal tender of fare.—*Funderburg v. Ry. Co.*, 81 S. C., 149; 61 S. E., 1075.

Stipulations in tickets.—*Sellers v. A. C. L. R. R. Co.*, 77 S. C., 361; 57 S. F., 1102; *Bethea v. R. R. Co.*, 26 S. C., 91; *Daniels v. Ry. Co.*, 62 S. C., 1. Tickets over connecting lines.—*Seibels v. Ry. Co.*, 80 S. C., 134; 61 S. E., 435.

Unlawful for
railroads to
collect for
crossing
bridges.1906, XXV.,
44.

It shall be unlawful for any agent or conductor of any railroad to charge or collect any extra compensation from any passenger for crossing any bridge on any river which may be wholly or partly within this State.

Violating last paragraph is a misdemeanor. See Criminal Code.

Railroads to
discharge pas-
sengers at cer-
tain County
seats from all
trains.1908, XXV.,
658.

Sec. 2937. All railroad companies operating railroads within this State, which pass through any town or city where the County Court House is located, having a population of not less than thirty-nine hundred (3,900) or more than forty-one hundred (4,100), as shown by the United States Census of 1900, shall cause all of its passenger trains, except trains used exclusively for carrying inter-state passengers, to stop and to receive and discharge passengers at the regular passenger depots situated in such town or village.

Any such railroad company violating the provisions of this Act shall be liable to a penalty of not more than one

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hundred dollars, to be recovered by any person aggrieved hereby, in any Court of competent jurisdiction.

Nothing herein contained shall bar any action for actual or punitive damages growing out of any violation of this section, and any such causes of action may be united in the same complaint.

See Herndon v. Chicago, etc., R. R., 217 U. S., —.

Sec. 2938. Every mileage ticket sold by any railroad company doing business in this State shall be valid and good for the carriage over the lines of said railroad, both for the purchaser and the actual members of his or her family living with the purchaser at the time of purchase: Mileage tickets shall be good for members of purchasers families. 1904, XXIV., 439. *provided*, That the name of any person so entitled to use said ticket shall be furnished in writing to the railroad selling the same by the purchaser at the time of the purchase, and shall be inserted in the ticket.

Sec. 2939. Every railroad corporation, when requested, shall give checks to passengers for their baggage when delivered for transportation in good shipping order, and shall re-deliver the same to the passengers upon the surrender of their checks. Any corporation which wilfully refuses to comply with the provisions of this Section shall forfeit ten dollars for each offence. To check baggage; penalty for refusal. Civ. '02, § 2166.

Sec. 2940. All common carriers of passengers in this State using steam as a motive power shall safely transport the destination of any passenger personal baggage or sample trunks or sample cases, not to exceed two hundred pounds in weight, for any one passenger holding a ticket paying ordinary passenger fare, free of charge for such personal baggage or sample trunks or sample cases, and shall issue checks for such personal baggage or sample trunks or sample cases on request. Railroads to transport free baggage of passengers not exceeding 200 pounds.

See Criminal Code for violation of this Section.

Sec. 2941. Bicycles and baby carriages shall be deemed baggage for the purpose of transportation by steam railroads and steam ferries. Steam railroads and steam ferries shall carry bicycles and baby carriages under the same rules and subject to the same liabilities as govern trunks and other separate baggage of passenger. No person shall be required to crate, cover, lock, box or otherwise protect Bicycles and baby carriages to be deemed baggage. Civ. '02, § 2167; 1904, XXIV., 417.

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bicycles or baby carriages as baggage, under the provisions of this Section. But said steam railroads and steam ferries shall not be required to carry more than one bicycle or baby carriage for any one person.

To keep
rooms for pas-
sengers.

Civ. '02, §
2168.

Sec. 2942. Every railroad company owning or operating a railroad in this State shall erect and keep at every office where tickets are sold for travel over its road, two good rooms or apartments of reasonable size for the amount of travel at such office, which shall be furnished with comfortable seats for the accommodation of passengers. Such rooms to be in charge of an employee of such company, and kept open at such hours as to accommodate passengers traveling over such road on any of its passenger trains; and it shall be the duty of the Railroad Commissioners to enforce the provisions of this Section.

Includes persons who are there to meet passengers.—*Islar v. Ry. Co.*, 57 S. C., 336; 35 S. E., 583.

Damages for failure to provide proper accommodation.—*Pickens v. Ry. Co.*, 54 S. C., 498; 32 S. E., 571.

Separate accommodations for colored persons.—*Smith v. Chamberlain*, 38 S. C., 529; 17 S. E., 371.

Railroads to
build two sep-
arate closets
when ordered
by Railroad
Commission.

1906, XXV,
4.

Sec. 2943. All railroads, railroad companies, or other companies or individuals operating or running any system of cars, carriages or other conveyances for the purpose of transporting passengers for hire, are hereby required, when ordered so to do by the Railroad Commissioners, who are hereby empowered to make such order, to build, keep and maintain at all passenger stations, and other places where people are regularly taken on and put off of said cars, carriages, or other conveyances, two separate and distinct water closets—that is to say, one for female passengers and one for male passengers—and said closets shall be kept in fit and suitable condition for the use and convenience of passengers: *Provided*, This Section shall not be construed to have reference to flag stations on railroad lines where there is no regularly kept passenger station.

Penalty for
failure.

Any company, organization or individual refusing, failing or neglecting to observe the provisions of this Section, shall be liable to pay a penalty of fifty dollars for each and every day said company, organization, individual or individuals, shall fail, refuse or neglect to provide said water closets as herein provided, said penalty to be recovered by

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any citizen or citizens who will sue therefor, one-half of said penalty to go to the school fund of the County in which said suit is brought, and the other half to the citizen or citizens suing for same.

Sec. 2944. The Railroad Commissioners of this State are hereby invested with authority to require all railroads at functional points, and at such other points as the travel and public interest in their judgment shall justify in this State, to erect Union or other depots for the convenience and accommodation of the public, and if any railroad company shall refuse or fail so to do, when required by the said Railroad Commissioners, within the time as specified by them, it shall forfeit and pay a sum of not less than fifty (\$50.00) dollars per day after expiration of time as set forth in the order or circular of said Railroad Commission, to be recovered in an action in any County in this State where such violation has occurred, and shall be in the name of the State of South Carolina. The Commission shall institute such action through the Attorney-General or any of the Solicitors of the State. The said Railroad Commissioners shall have the right to fix the time for the erection of depots.

Railroad
Commissioners may re-
quire rail-
roads to erect
depots.

Civ. '02, §
2169; 1907,
XXV., 504;
1906, XXV.,
9.

Sec. 2945. All railroad companies operating railroads within this State shall keep the grade of its right of way at all stations level with the ties and four feet wide on each side, for a distance of one hundred and fifty feet on each side of such station or stopping place: *Provided, however,* That in cases of terminal stations, the provisions aforesaid shall be operative only as to so much of the territory as is opposite to those portions of said terminal stations used for passenger service and the approaches thereto, on one side.

Railroads
to keep
grade at sta-
tions level
with track.

1910, XXVI.,
680.

Any railroad company violating the provisions of this Section shall be liable to a penalty of not more than one hundred dollars, on complaint of any person aggrieved hereby, one-half of penalty shall go to complainant and the other half thereof to the use of the public schools in the county in which complaint is made.

Penalty.

Sec. 2946. Whenever any passenger train on any railroad in this State shall be more than one-half of one hour behind its schedule time it shall be the duty of such rail-

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Proceedings
as to trains
behind time.

Civ. '02, §
2170: 1903,
XXIII., 80;
1908, XXV.,
1075.

road company to keep posted at every telegraph station along its line, when a telegraph operator is on duty at such station, the time such train is behind its schedule, and shall change such bulletin every quarter-hour until such train arrives, stating therein the time such train is behind and the hour at which it is expected to arrive: *Provided*, Such bulletins shall not be required to be posted at any station until one-half hour before the regular schedule time at which such train is to arrive at the station at which such bulletin is required to be kept.

Any railroad company which shall refuse or neglect to comply with the provisions of this Section shall forfeit and pay the sum of ten dollars for each and every such refusal or neglect; said sum to be sued for and recovered by any person aggrieved in any Court of competent jurisdiction in the County where such refusal or neglect occurs.

Change of
time tables to
be published.

Civ. '02, §
2171.

Sec. 2947. Notice of any change in passenger schedules or time tables, shall be published at least three days before such change goes into effect.

Badges to be
worn.

Civ. '02, §
2172.

Sec. 2948. Every conductor, baggage master, engineer, brakeman, or other servant of any railroad corporation employed on a passenger train, or at stations for passengers, shall wear on his hat or cap a badge which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall have any authority to meddle or interfere with any passenger, his baggage, or property. And it is the duty of said railroad corporation to see that such badges as aforesaid are worn.

Police pow-
ers of conduc-
tors and sta-
tion agents.

Civ. '02, §
2173.

Sec. 2949. Conductors of railroad trains and station or depot agents are hereby declared to be conservators of the peace, and they and each of them shall have the common law power of constables to make arrests, except that the conductors shall only have such power on board of their respective trains, and the agents at their respective places of business; and said conductors and agents may cause any person or persons so arrested by them to be detained and delivered to the proper authorities for trial as soon as practicable.

Conductors may arrest without warrant for offences committed with view.—Laggins v. Southern Ry., 64 S. C., 321; 42 S. E., 162.

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Sec. 2950. When any passenger shall be guilty of disorderly conduct, or use any obscene or grossly profane language, to the annoyance and vexation of passengers, or play any game of cards or other game of chance for money or other valuable thing, upon any railroad train, the conductor of such train is hereby authorized to stop his train at any place where such offense has been committed and eject such passenger from the train, using only such force as may be necessary to accomplish such removal, and may command the assistance of the employees of the railroad company, or any of the passengers, to assist in such removal.

Conductors authorized to eject passengers guilty of disorderly conduct or using obscene or profane language or of gambling, and may command assistance of employees and passengers.

Civ. '02, § 2174.

Right to eject passenger for disorderly conduct.—Laggins v. Southern Ry., 33 S. C., 321; 42 S. E., 161.

Sec. 2951. Whenever any person delivers to a railroad corporation for transportation any commodity not extraordinary in its character, such corporation shall give to the shipper thereof, if requested at the time of the delivery of such commodity, a receipt for the same, describing such commodity, or the marks and numbers on packages so delivered for transportation, and no additional charge shall be made for giving such receipt. Any railroad corporation which refuses to give such receipt shall pay to the person entitled to the same the sum of fifty dollars, to be recovered in an action in any Court of competent jurisdiction.

Company must give receipt for freight upon request of shipper; penalty.

Civ. '02, § 2175.

Sec. 2952. In case of the loss of or damage to any article or articles delivered to any railroad corporation for transportation over its own and connecting roads, the initial corporation, or corporation first receiving the same, shall, in any case, be liable for such loss or damage, but may discharge itself from such liability by the production of a receipt, in writing, for the said article or articles from the corporation to whom it was its duty to deliver such article or articles in the regular course of transportation. In which case, the said connecting road or roads shall be severally liable, but may in succession and in like manner discharge themselves respectively therefrom; but if any such corporation shall wilfully fail or refuse, upon reasonable demand being made to it by any party interested in the production of such receipt, to produce the same, then it shall not be entitled to claim the benefit of such exemption in any action

Liability for loss or damage, as between connecting roads; how discharged. &c.; proviso.

Civ. '02, § 2176.

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against the said railroad corporation to render it liable for such loss or damage.

Must be liberally construed.—*Miller Bros. v. R. R.*, 33 S. C., 359; 11 S. E. 1093. Requires initial railroad company to produce proper receipt from "steamship company" next connecting line of transportation.—*Id.* But it is not "wilful failure or refusal" to furnish proper receipt, when the receipt of railroad to which steamship company delivered is furnished.—*Id.* Intra road cannot, unless authorized, bind connecting roads by special contract for freight.—*Lewis v. R. R.*, 25 S. C., 249. Railroad not liable for damage to goods in hands of connecting carrier; application of statute to absolute contracts.—*Hill v. G., C. & N. R. R. Co.*, 43 S. C., 461; 21 S. E., 337.

Applied to baggage.—*Adger v. Blue Ridge Railroad Co.*, 71 S. C., 213; 20 S. E., 783. Presumption that terminal carrier delivered.—*Willett v. Ry.*, 4 S. C., 477; 45 S. E., 93. Delay.—*Salley v. S. A. L. Ry.*, 76 S. C., 173; 34 S. E., 782.

Constitutional.—*Skipper v. S. A. L. Ry.*, 75 S. C., 276; 55 S. E., 454. *Venning v. A. C. L. R. R.*, 78 S. C., 48; 58 S. E., 983; *Jonesville Mfg. Co. v. Southern Ry.*, 77 S. C., 481; 58 S. E., 422.

Merchandise must be promptly forwarded according to directions, &c.

Civ. '02, § 2177.

Sec. 2953. Every railroad corporation shall promptly forward merchandise consigned or directed to be sent over another road connecting with its road, according to the directions contained thereon or accompanying the same. and shall not receive and forward over its road any merchandise consigned, ordered or expressly directed to be received and forwarded by a different route.

Forwarding to directions.—*Venning v. Ry.*, 78 S. C., 55; 58 S. E., 983. Contract to forward by particular route; liability in case of deviation.—*Davis v. Blue Ridge Ry. Co.*, 81 S. C., 466; 62 S. E., 856.

Cars and engines in use to be attached within certain time of departure, &c.

Civ. '02, § 2178.

Sec. 2954. Whenever railroad cars and engines are in use on railroads and making regular passage thereon, they shall not be attached upon mesne process in any suit within forty-eight hours previous to their fixed time of departure, unless the officer making such attachment shall have first demanded of the owners or managers of such engines or cars, or any of the agents of such railroad, other property equal in value to the *ad damnum* in the writ upon which to make such attachment, and such owners or managers shall have refused or neglected to comply with said demand. And any officer making such attachment shall, on his return upon the process upon which it is made, certify that he has made such demand for such other property, and that such demand has been refused or neglected; otherwise such attachment shall be wholly void.

Selbels v. Ry., 80 S. C., 144; 61 S. E., 435; *Chitty v. Ry.*, 62 S. C., 136; 40 S. E., 944.

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Railroad companies to construct industrial side-tracks.

1905, XXIV, 956.

Sec. 2955. Whenever any manufacturing or industrial enterprise is proposed to be located or is already located along the line of any railroad company in this State, and within one-half mile thereof, the corporation or corporations owning or operating the said line of railroad be, and they hereby are, required to build, construct, operate and maintain such connecting track or tracks as may be necessary to effect an actual connection with the said manufacturing or industrial enterprise, and such said line of railway, for the purpose of interchanging, receiving, delivering and handling for said enterprise cars and freight in carloads; and such manufacturing or industrial enterprise shall submit with the railroad company an application in writing, giving to the company thirty days' notice of its demand for said track, together with the location of the said enterprise: *Provided*, That the cost of construction together with the costs and expenses paid and incurred in obtaining the right of way shall be borne by the said enterprise, payable to the said railroad company upon the completion of the said track, which payment shall be guaranteed to the company by a good and sufficient bond, entered into by said enterprise, with surety, to be approved by the Clerk of Court of the county in which the said enterprise is or is to be located: *And provided, further*, That before any manufacturing or industrial enterprise shall be required to pay for the construction of any track the railroad company shall file with said manufacturing or industrial enterprise a sworn itemized statement of the actual cost of obtaining the right of way, and costs of construction, which shall be paid by said manufacturing or industrial enterprise: *Provided, however*, That after the railroad company, with whose line of road a manufacturing or industrial enterprise desires to connect, has procured the right or rights of way for the enterprise desiring to connect therewith, and shall have furnished to such enterprise the detailed statement, of the cost of the construction of the proposed sidetrack, such enterprise shall have the option to build and construct the said track by it desired, on its own account, and in such case the railroad company, with which said sidetrack is to connect, shall, in addition to procuring the right or rights of way for the said sidetrack or sidetracks, furnish and

Cost to be borne by enterprise.

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provide all necessary material in the manner herein required for the construction of the said sidetrack, and the enterprise so constructing its sidetrack shall not be chargeable with the cost of construction by it done, and shall not to that extent be required to give bond: *Provided, further,* That before any railroad company shall be required to operate its cars over such track when so built, same shall have been first accepted by one or more of the Railroad Commissioners, and said Commissioners, one or more, are hereby required to inspect said sidetrack within ten days after written notice that the same has been completed.

cent. of annual revenue to be refunded.

Sec. 2956. The said railroad company shall each year refund and repay to the said enterprise, twenty per cent. (20 per cent.) of the revenue derived by it from freight received from and delivered to the said enterprise, until the entire cost paid by it for the construction of the said track shall have been refunded and repaid.

Construction to be entered upon after notice.

Sec. 2957. Upon receiving notice as herein provided that such track is required or desired, the said railroad shall forthwith proceed to have the proposed line surveyed and the costs of construction estimated, and furnish said enterprise with a detailed statement of the same within thirty (30) days after it has received said notice; and thereupon the said enterprise shall enter into the bond required by Section 2955, and upon receipt of the same, said railroad company shall proceed within ten (10) days thereafter to enter upon the construction of the said sidetrack, which shall be completed without delay.

Penalty for failure to comply with this Act.

Sec. 2958. Any railroad company failing to comply with the requirements of Sections 2955, 2956, 2957, 2958 and 2959, shall be subject to a penalty of \$10.00 per day for each day it fails so to comply, to be recovered in an action by any person, firm or corporation aggrieved, of the County in which the said enterprise is proposed to be located; one-half for the benefit of the party bringing said action, and one-half for the benefit of the State of South Carolina.

Powers of Railroad Commissioners.

Sec. 2959. *Provided,* If on application in this behalf the Railroad Commissioners shall decide that said sidetrack shall not be placed, then the said railroad company shall not be required to build the same: *Provided, however,* That in such application to the said Railroad Commissioners, it shall

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incumbent upon the railroad company resisting the construction of the proposed sidetrack to show that the necessity for the construction of said connecting track or side-track does not exist: *Provided, further,* That the Railroad Commissioners shall, and they are hereby, required to render their decision upon said application within thirty days from date of said application.

ARTICLE IX.

RAILROAD CROSSINGS; CATTLE GUARDS.

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| <p>D. Railroad Commissioners to regulate crossings of one railroad by another.</p> <p>1. Highways not to be obstructed at crossing.</p> <p>2. and 2963. Alterations in highways permitted.</p> | <p>Sec.</p> <p>2964. Crossings on levels to be protected.</p> <p>2965. Highway may be made across railroad.</p> <p>2966. Stock guards to be constructed.</p> <p>2967. Penalty for violation.</p> |
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Section 2960. No railroad shall be constructed to cross another railroad at the same level therewith, or across navigable or tide waters, without the consent, in writing, of the Railroad Commissioners, and in such manner as they shall prescribe. It shall be unlawful for any corporation proceeding to construct a branch or extension, or otherwise to take proceedings contemplating a new crossing of one railroad with another, at the same level therewith, unless such crossing shall first have been approved, in writing, by the Railroad Commissioners, and the preliminary approval of plan for such crossing shall always be made subject to confirmation by the Commissioners. And the Court of Common Pleas shall have full equity jurisdiction, on information filed by the Attorney-General, in case of any violation of the provisions of this Section.

2961. When a railroad is laid out across a highway, whether by way, it shall be constructed so as not to obstruct the same.

Navigationable streams not to be obstructed.—*State v. R. R. Co.*, 9 Rich., 247; 28 S. C., 23; 4 S. E., 796. Public roads.—*Murray v. R. R. Co.*, 227. Private ways.—*Ross v. R. R. Co.*, 33 S. C., 477; 12 S. E., 2180.

Railroad Commissioners' regulations as to crossings.

Civ. '02, § 2179.

Not to obstruct highways at crossings.

Civ. '02, § 2180.

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Railroad
Companies
may raise or
lower high-
ways.

Civ. '02, §
2181.

Sec. 2962. A railroad corporation may raise or lower any highway or other way for the purpose of having its road pass over or under the same; but before proceeding to cross, alter, or excavate for the purpose of crossing the way, it shall obtain from the County Commissioners a decree prescribing what alterations may be made in the way, and the manner and time of making the alterations or structures the Commissioners may require at the crossing; and before entering upon, excavating, or altering the way, shall give security satisfactory to the Commissioners of the County in which the crossing is situated that it will faithfully comply with the requirements of the decree to the acceptance of the Commissioners, and indemnify the city or town from all damages and charges by reason of any failure so to do: *Provided*, That where such highway or other way shall be within the corporate limits of any city, town, or village, such permission shall be obtained from, and security be given to, the proper municipal authorities thereof, instead of from and to the said County Commissioners.

May alter
course of high-
way; when
and how, &c.

Civ. '02, §
2182.

Sec. 2963. A railroad corporation may alter the course of a highway or other way, other than a street in any incorporated city, town or village, for the purpose of facilitating the crossings of the same by its roads, or permitting its road to pass at the side thereof without crossing, upon obtaining a decree of the County Board of Commissioners prescribing the manner and time of such alteration. The corporation shall pay all damages occasioned to private property by the alteration, as in the case of land taken for its road.

Nickles v. S. A. L. Ry., 74 S. C., 128; 54 S. E., 225.

Crossing on
level to be pro-
tected; how.

Civ. '02, §
2183.

Sec. 2964. A railroad corporation whose road is crossed by a highway or other way on a level therewith shall, at its own expense, so guard or protect its rails by plank, timber or otherwise as to secure a safe and easy passage across its road; and if, in the opinion of the County Board of Commissioners, or if such highway or other way be within the corporate limits of any city, town or village, then the proper municipal authorities thereof, any subsequent alteration of the highway or other way, or any additional safeguards are required at the crossing, they may order the corporation to establish the same.

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Violation of this Section is negligence *per se*.—Williams v. S. A. L. Ry., S. C., 1; 56 S. E., 652. Does not apply to private crossings.—Moragne C. & W. C., Ry. Co., 77 S. C. 437; 58 S. E., 150. Proximate cause of injury; punitive damages.—Thompson v. S. A. L. Ry., 81 S. C., 335; 62 S. 396.

Sec. 2965. A highway or town way may be laid out across a railroad previously constructed when the County Board of Commissioners adjudge that the public convenience and necessity require the same; and in such case, after due notice to the railroad corporation, and hearing of parties interested, they may thus lay out a highway across a railroad, or may authorize a city or town, on the petition of the Mayor and Aldermen thereof, to lay out a way across a railroad in such manner as not to injure or obstruct the railroad.

Highway or town way across railroad; how may be laid out.

Civ. '02. § 2184.

Ill v. R. R. Co., 81 S. C., 398; 10 S. E., 91.

Sec. 2966. The several railroad companies whose line of road lies wholly or partly in this State are hereby required to construct and keep in repair an adequate stock-guard or cattle-gap at every point where the line of said railroad of such company crosses or may hereafter cross the line of fence in this State.

Stock guards to be constructed.

Civ. '02. § 2185.

Sec. 2967. For every violation of Section 2966 the railroad company so violating it shall pay to the owner or owner of the fence upon the line of which such stock-guard or cattle-gap should have been constructed and kept in repair, a sum of one hundred dollars, to be recovered by action in the Court of Common Pleas for the County in which such stock-guard or cattle-gap should have been constructed and kept in repair.

Penalty for violation.

Civ. '02. § 2186.

Where the company has acquired not a mere right of way over land, but title to the land itself, as by conveyance in fee, Sections 2966 and 2967 do not apply.—Anderson v. Ry. Co., 59 S. C., 366; 37 S. E., 944. Applies to fences built after construction as well as before.—Burnett v. S. A. L. Ry., 62 S. C., 281; 40 S. E., 679.

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ARTICLE X.

RIGHT OF WAY.

SEC.

2968. Notice to owner of land before entering; how long; how served; when consent presumed, &c.

2969. Proceedings by corporation when owner refuses consent. Petition; hearing of; order of Judge; organization of jury by Clerk, &c.

2970. When Clerk interested, Judge of Probate to act.

2971. Jury to inspect premises, take testimony, fix compensation, &c.

2972. Appeal to Circuit Court; notice; issue; verdict; new trial, &c.

2973. Lands for depots, stations, &c.

2974. Service of notice, when owner is an infant, *non compos* or non-resident.

SEC.

2975. Right of way to vest, how long and for what purpose; fee to remain in owner.

2976. Right of way may be condemned for construction of other highways; proviso.

2977. Right of entry for survey; owner's right to compensation after construction; limitation.

2978. Proceedings, where to be filed; where to be instituted.

2979. Clerk's, Sheriff's and Jurors' fees; by whom paid.

2980. Penalty for failure of jurors to attend.

2981. All railroads, steam or electric, to have right to condemn land.

The special proceedings authorized in this article were held constitutional in *Atlantic Coast Line R. R. Co. v. S. B. R. R. Co.*, 57 S. C., 317; 35 S. E. 533.

Notice to owner of land before entering; how long; how served; when consent presumed, &c.

Civ. '02, § 2187.

Section 2968. Whenever any person or corporation shall be authorized by charter to construct a railway, canal or turnpike in this State, such person or corporation, before entering upon any lands for the purpose of construction, shall give the owner thereof (if he be *sui juris*) notice, in writing, that the right of way over said lands is required for such purpose, which notice shall be given at least thirty days before entering upon said lands; and such notice shall be served upon such owner in the same manner as may be required by law for the service of the summons in civil actions. If the owner shall not, within the period of thirty days after service of said notice, signify, in writing, his refusal or consent, it shall be presumed that such consent is given; and such person or corporation may, thereupon, enter upon said lands; but the owner of said lands may move for an assessment of compensation in the manner hereinafter directed.

Two classes of cases do not fall within this statute. (1) Where the right to compensation is disputed; (2) where the entry on the land was without

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consent or permission of the owner, either actual or constructive.—*Glover v. Lemley*, 62 S. C., 39 S. E., ; *Tutt v. Ry. Co.*, 28 S. C., 388; 5 S. E., 381.

This statute, Secs. 2968 to 2977, affords no remedy to determine the right of the owner to demand compensation; hence where that is denied, he must bring his action at law.—*Cureton v. S. B. R. R. Co.*, 59 S. C., 377; 37 S. E., 14; *Ry. Co. v. Ridlehuber*, 38 S. C., 308; 17 S. E., 24; *Aull v. R. R. Co.*, 2 S. C., 431; 20 S. E., 302.

The owner is the owner at the time the road was finished through the land.—*Lewis v. R. R.*, 11 Rich., 91. And the owner having claimed compensation is donee cannot afterwards recover the land.—*Sams v. R. R. Co.*, 15 S. C., 34. One having absolute control may give the consent as owner.—*Tutt v. R. R.*, 16 S. C., 365; *Tompkins v. R. R.*, 21 S. C., 420. Owner is a general term and applies to any one having a legal interest in the land.—*Ry. Co. v. Scott*, 38 S. C., 34; 16 S. E., 185. Consent of owner may be presumed from circumstances.—*Verdier v. R. R.*, 15 S. C., 476; *Rankin v. S. & K. Ry. Co.*, 3 S. C., 542; 36 S. E., 997. Consent not required for entry.—*Tompkins v. R. R.*, 38 S. C., 216; 11 S. E., 692. Proceedings for compensation may be barred by Statute of Limitations.—*Waring v. R. R.*, 16 S. C., 416. One co-tenant having granted her interest to railroad company, other co-tenants cannot recover compensation for right of way until partition.—*R. R. v. Leach*, 33 S. C., 175; 11 S. E., 631. Where the grantor co-tenant died and her heirs are descended to the others they took same burdens with the easement.—*Howling thereout*.—*Ross v. R. R.*, 33 S. C., 477; 12 S. E., 101. This remedy includes all other remedies for compensation, and is exclusive as to those cases falling within its provisions.—*McLaughlin v. R. R. Co.*, 5 Rich., 597; *Miller v. Edings*, 11 Rich., 245; *Sams v. R. R. Co.*, 15 S. C., 484; *Glover v. Lemley*, 62 S. C., 52; 39 S. E. As to notice to land owner.—*Tompkins v. A. K. Railroad Co.*, 37 S. C., 382; 16 S. E., 149.

Remaindermen are owners within the meaning of the Constitution, Art. I, c. 17, and where they refused consent to entry, and the company entered, without condemning the right of way, under deed from the life tenant, the remaindermen may bring an action at common law, after the falling in of the life estate to recover compensation.—*Cureton v. S. B. R. R. Co.*, 59 S. C., 371; 37 S. E., 914; *Glover v. C. & S. Ry.*, 72 S. C., 381; 51 S. E., 7. See also *Tutt v. Ry. Co.*, 28 S. C., 388; 5 S. E., 381, as to effect of conveyance by life-tenant. Distinction between action for damages, and proceedings for compensation.—*Ragsdale v. So. Ry. Co.*, 60 S. C., 381; 38 S. E., 611. Where the company enters on land without exercising the right to condemn, an action for damages at common law will lie.—*Sims v. Ohio & C. Ry. Co.*, 56 S. C., 30; 36 S. E., 746. Acquirement of land for right of way by contract to purchase, with proceedings by interpleader to determine right of contending parties to purchase money.—*Chamberlain v. N. E. R. R.*, 41 S. C., 399; 19 S. E., 743. Where private corporation has power to exercise right of eminent domain to build a private road the general laws relating to highway crossings apply.—*Ex Parte Bacot*, 36 S. C., 125; 12 S. E., 1.

Foreign corporation cannot condemn.—*Burnett v. Postal Telegraph Co.*, 60 S. C., 462; 60 S. E., 1116. Condemnation proceedings are proper where life tenant permits entry.—*Granger v. Telegraph Co.*, 70 S. C., 528; 50 S. E., 3.

Damages where permission of entry was obtained by fraud.—*Mason v. Telegraph Co.*, 74 S. C., 557; 54 S. E., 763.

Compensatory damages for an unintentional trespass.—*Baldwin v. Telegraph Co.*, 78 S. C., 419; 59 S. E., 67; *Wood v. Pacolet Mfg. Co.*, 80 S. C., 61; 61 S. E., 95.

Estoppel to claim easement.—*C., N. & L. R. R. v. Laurens Cotton Mills*, 82 S. C., 24; 61 S. E., 1089; 62 S. E., 1119.

When demand is not a prerequisite to recovery of compensation.—*Dobson v. Telegraph Co.*, 79 S. C., 429; 60 S. E., 948.

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Rights of
way; how ob-
tained; how
damages as-
sessed, &c.

Civ. '02, §
2188.

Sec. 2969. If the owner of said lands shall signify his refusal of consent to entry thereon without previous compensation, or shall remain silent in reference thereto, the person or corporation requiring such right of way shall apply, by petition, to the Judge of the Circuit wherein such lands are situated, for the empanelling of a jury to ascertain the amount which shall be paid as just compensation for the right of way required, in which petition shall be set forth a description of the lands, the names of the owner, the purposes for which the lands are required, and such other facts as may be deemed material. On the hearing of such petition the Circuit Judge shall order the same to be filed in the office of the Clerk of the Court of Common Pleas for said County, and shall further order the said Clerk to empanel a jury of twelve to ascertain the compensation for the use of the lands required. The Clerk, immediately on receiving such order, must give to the owner of the lands notice thereof, in writing, and of the day which shall be assigned. On the day assigned, the Clerk, in the presence of the parties, if they shall attend, shall select the names of twenty-four disinterested freeholders of the County, and shall draw therefrom the names of twelve to act as jurors, and shall cause those so drawn to be forthwith summoned to meet, at such place and at such time as he may assign, for the purpose of examining the said lands and ascertaining the compensation to be made for the right of way over the same. It shall further be the duty of said Clerk, in person or by his deputy, to attend at the same time and place for the purpose of organizing the jury; and he shall have power to summon from the vicinage other disinterested freeholders to act as jurors in the stead of any of those first summoned, who shall fail to attend or who shall be objected to by either party on the ground of disqualification on account of interest.

Powers of Circuit Judge are judicial, not ministerial; he may exercise common law powers in the execution of his duties.—*State v. R. R. Co.*, 1 S. C., 46. Though description of land in petition be insufficient, the Judge has jurisdiction to empanel, a jury.—*Ex parte Bennett*, 26 S. C., 317; 2 S. E., 389; *ex parte Bacot*, 36 S. C., 125; 15 S. E., 204. Does not require service of the petition upon parties in interest.—*Ex parte Bacot*, 36 S. C., 125; 15 S. E., 204.

Sec. 2970. In all cases where the Clerk of the Court of Common Pleas shall be the owner of any lands over which

it is sought to obtain a right of way in such County, or shall hold the legal title thereof as trustee, guardian or committee, or have any other interest therein, the proceedings for obtaining the right of way through such lands shall be had as provided in Section 2969 hereof, except that the Judge of Probate for such County shall be substituted for the Clerk of the Court of Common Pleas and shall assume all of the duties of the Clerk contained in Section 2969 and the following Sections of said chapter.

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Where clerk
is interested.Civ. '02, §
2189.Judge of
Probate to act
instead.

Sec. 2971. The jury so empanelled, after being first sworn faithfully and impartially to determine the question of compensation submitted to them, shall proceed to inspect the premises, and to take testimony in reference to the construction of the proposed highway, and the quantity of land which shall be required therefor; and, irrespective of any benefit which the owner may derive from the proposed highway, and with respect alone to the quantity and value of the land which may be required, and to the special damage which the owner may sustain by reason of the construction of the highway through his lands, they shall ascertain the amount of compensation which shall be made to the owner thereof, and shall render their verdict in writing for the same.

Jury to in-
spect pre-
mises, fix com-
pensation, &c.Civ. '02, §
2190.

As to estimate of compensation.—*R. R. v. Partlow*, 5 Rich., 428; *White v. R. R.*, 6 Rich., 47; *R. R. v. Sineath*, 8 Rich., 185; *R. R. v. Blake*, 12 Rich., 34. The value of the land and special damages are only to be estimated under this section.—*Bowen v. R. R. Co.*, 17 S. C., 574; *Tompkins v. R. R.*, 11 S. C., 420. Supposed benefits from railroad cannot be considered.—*R. R. Co. v. Leech*, 33 S. C., 179; 11 S. E., 631.

Compensation includes special damages.—*Johnson v. Southern Ry.*, 71 S. C., 41; 50 S. E., 775.

Valuation of rights of remaindermen.—*C. & W. C. Ry. v. Reynolds*, 69 S. C., 508; 48 S. E., 476. Verdict.—*Ex parte Davis*, 83 S. C., 259; 65 S. E., 34.

Sec. 2972. From the verdict so rendered it shall be the right of either party to appeal to the first term of the Circuit Court next ensuing in the County, giving to the opposite party fifteen days' notice of such intended appeal, with the grounds thereof; and, upon the hearing of such appeal, if the Court shall be satisfied of the reasonable sufficiency of the grounds, an issue shall be ordered, in which the appellant shall be the actor, and the question of compensation shall be thereupon submitted to a jury in open Court, whose verdict shall be final and conclusive, unless a new trial shall

Right of ap-
peal to Circuit
Court. Amount
of verdict to
be deposited.Civ. '02, §
2191.

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be ordered by the Supreme Court. But in no case of appeal shall the progress of the work of construction be stayed: *Provided*, The person or corporation requiring the right of way shall deposit with the Clerk of the Court the amount of the verdict from which the appeal is taken.

Measure of damages.—R. R. Co. v. Sineath, 8 Rich., 185. Special damages.—Bowen v. R. R. Co., 17 S. C., 574. The service of both the notice and grounds of appeal within fifteen days essential to the appeal.—Atlantic C. L. R. R. Co. v. S. B. R. R. Co., 57 S. C., 317; 35 S. E., 552. The order of Court allowing the appeal is reviewable on appeal from the final order.—*Id.* But on such appeal the Supreme Court will not review the finding of the Circuit Court as to the sufficiency of the grounds of appeal.—Chesterfield & K. R. R. Co. v. Johnson, 58 S. C., 560; 36 S. E., 919. As to right of trial by jury in Circuit Court on appeal.—*Id.* Order in Circuit Court granting new trial is appealable.—Atlantic Coast Line R. R. Co. v. S. B. R. R. Co., *supra*.

Verdict apparently irregular vacated.—*Ex parte Davis*, 83 S. C., 259; 65 S. E., 234.

Lands for
depots, &c.

Civ. '02, §
2192.

Sec. 2973. Whenever any lands shall be required for the location of depots, stations, turn-outs, section-houses, or other necessary uses of a highway, and from want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner, the same may be taken at an assessed valuation, to be made by a jury in like manner as hereinbefore directed for ascertaining the compensation for right of way.

Gaffney v. Wood, 74 S. C., 323; 54 S. E., 573. *Ragsdale v. Ry.*, 60 S. C., 381.

Notice to be
given to trus-
tees in certain
cases. Pub-
lished notice
sufficient for
non-residents.

Civ. '02, §
2193.

Sec. 2974. When the owner, or any one of the several owners, of the lands is an infant, or *non compos mentis*, the required notices shall be served upon the trustee, guardian, or committee of such persons; and if there be no trustee, guardian, or committee, the Clerk of the Court of Common Pleas shall have power, and he is hereby authorized, to appoint for such person a guardian *ad litem*, upon whom the service shall be made, and who shall represent the interest of such infant, or person *non compos mentis*. And if any owner of lands shall reside beyond the State, or his or her place of residence be unknown, such owner shall be served by publication as in civil actions.

Rights to
vest, for how
long fee to re-
main in own-
er.

Civ. '02, §
2194.

Sec. 2975. Upon payment of the compensation thus ascertained by a jury, the right of way over said lands, or the use of said lands for the purposes for which the same were required, shall vest in the person or corporation who

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shall hold the charter of such highway, so long as the same shall be used for such highway, and no longer; but the fee in such lands, subject to such special uses, shall remain in the owner thereof, and nothing herein contained shall be construed to confer upon such person or corporation any right in, or power over, the lands so condemned, other than such as may be within the particular purpose for which such lands were condemned.

The right of way does not rest until payment of the compensation; how payment is enforced.—Gillison v. R. R. Co., 7 S. C., 173; Buckner v. R. R. Co., 7 S. C., 325. Right of owner to recover damages on account of use of land for other purposes.—Ragsdale v. So. Ry. Co., 60 S. C., 381; 38 S. E., 109. Injoining such use.—*Ib.*

Southern Ry. Co. v. Gossett, 79 S. C., 372; 60 S. E., 956; Southern Ry. v. Howell, 79 S. C., 286; 60 S. E., 677; Harmon v. Ry., 72 S. C., 228; 51 S. E., 109; Columbia, Newberry & Laurens Ry. vs. Laurens Cotton Mills, 82 S. C., 119; 62 S. E., 119.

Sec. 2976. No lands or right of way which have heretofore been, or may hereafter be, procured for the construction or use of any highway, shall be considered exempt from liability to condemnation; but the right of way over said land and across or along such right of way may be condemned for the construction of any other highway: *Provided*, That in the construction of such other highway there be no hindrance to the use and enjoyment of the highway over which such lands or right of way were previously procured; and in all such cases notice of the application for a writ shall be served upon the president of the corporation whose lands or right of way shall be required, or upon any director or local agent of the corporation.

Liability to
condemnation.

Civ. '02, §
2195.

Over existing right of way.—Wilson v. Alderman, 69 S. C., 176; 48 S. E., 156; Alderman v. Wilson, 69 S. C., 156; 48 S. E., 85; 71 S. C., 64; 50 S. E., 119.

Sec. 2977. Nothing herein contained shall be construed to prevent entry upon any lands for purposes of survey and location; and if in any case the owner of any lands shall permit the person or corporation requiring the right of way over the same to enter upon the construction of the highway without previous compensation, the said owner shall have the right, after the highway shall have been constructed, to demand compensation, and to petition for assessment of the same in the manner hereinbefore directed: *Provided*, Such petition shall be filed within

Right of
entry for sur-
vey. Proviso.

Civ. '02, §
2196.

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twelve months after the highway shall have been completed through his or her lands:

C. & W. C. Ry. v. Garlington, 74 S. C., 161; 54 S. E., 208; Matthews v. Ry., 67 S. C., 505; 46 S. E., 335; C. & W. C. Ry. v. Reynolds, 69 S. C., 506; 48 S. E., 476; Aull v. Ry., 42 S. C., 435; Seltzly v. Water Power Co., 47 S. C., 483; Verdler v. Ry., 15 S. C., 476; Tutt v. Ry., 28 S. C., 400; Grainger v. Telephone Co., 70 S. C., 531; 50 S. E., 198; Ingleside Mfg. Co. v. Charleston Light & Power Co., 76 S. C., 95; 56 S. E., 664; *Ex parte* Postal Telegraph & Cable Co., 72 S. C., 554; 52 S. E., 676.

Proceedings
to be filed
with Clerk of
Court.

Civ. '02, §
2197.

Sec. 2978. All proceedings in relation to the condemnation of lands for the right of way, or for other necessary uses of any chartered highway, shall be filed in the office of the Clerk of the Court of Common Pleas for the County in which such proceedings were had, and shall be there of record. If the lands required, or over which the right of way be required, shall be partly in one County and partly in another, the proceedings shall be instituted in that County in which the owner, or a majority of the owners, reside; and if the owner or owners shall reside in neither of the Counties, or if there shall be an equal number of the several owners in each County, the proceedings shall be instituted in that County in which shall lie the greater part of the lands in reference to which such proceedings are instituted.

Clerk's,
Sheriff's and
Jurors' fees:
by whom
paid.

Civ. '02, §
2198.

Sec. 2979. The Clerk of the Court shall be entitled to a fee of ten dollars in every case instituted for the condemnation of lands under this Chapter; the same to cover all charges incident thereto prior to appeal, including all fees for recording, but not including costs of advertising; to which shall be added, in cases of appeal, an additional fee of two dollars, the same to cover all charges incident to the appeal; the Sheriff shall be entitled to a fee of one dollar. and mileage at the rate of five cents per mile for each service of notice or other paper; and for the summoning of jurors, the same fee by law allowed for the summoning of jurors for the Courts of Common Pleas; and the jurors shall be entitled to the same per diem and mileage by law allowed for attendance as jurors at the Court of Common Pleas; all of which costs, except the cost of appeal, shall be paid by the person or corporation requiring the lands or right of way; and the costs of appeal shall, in all cases, be paid by the losing party.

Sec. 2980. Any juror duly summoned to attend at the time and place designated, who shall fail to attend, shall be proceeded against in the same manner, and be subject to the same penalties, which are or may be prescribed by law for default in attending as jurors at the Court of Common Pleas.

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Penalty for
failure of Ju-
rors to attend.Civ. '02, §
2199.

Sec. 2981. The right and power to condemn a right of way for the purposes and in the manner provided in this Article for railroads operated by steam shall be, and the same are hereby, extended to and vested in all railroads, whether operated by steam, electricity or other motive power.

All rail-
roads, wheth-
er steam or
electric to
have the
right to con-
demn land.1908, XXV.,
1045.

ARTICLE XI.

PENALTIES AND FORFEITURES TO AND BY RAILROADS.

Sec.

2982. Penalty for injuring railroad.

2983. Penalty for obstructing engine or cars.

2984. Acts declared unlawful prohibited, penalties, recovery of.

2985. Action for penalties, in chancery.

2986. Production of books, papers, testimony, &c.

Sec.

2987. Limitation of such actions.

2988. Penalty for violations of law by directors and officers.

2989. Fines and forfeitures, how collected.

2990. Remedies given by this chapter cumulative.

2991. Proceedings in case of repeated violations.

2992. Penalty for operating competing lines.

Section 2982. Whoever wilfully and maliciously injures any way any railroad or anything appertaining thereto, any materials or implements for the construction or use thereof, or aids or abets in such trespass, shall forfeit to the use of the corporation for each offense treble the amount of damages proved to have been sustained thereby, to be recovered in an action of tort in the name of the corporation.

Penalty for
injuring rail-
road, &c.Civ. '02, §
2200.

Sec. 2983. Whoever wilfully does, or causes to be done, anything with intent to obstruct any engine or carriage passing upon a railroad, or with intent to endanger the safety of persons conveyed in or upon the same, or aids or abets therein, shall forfeit to the use of the corporation for each offense treble the amount of damages proved to have been sustained thereby, to be recovered in an action in any Court of competent jurisdiction.

Penalty for
obstructing
engine, &c.Civ. '02, §
2201.

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Acts de-
clared unlaw-
ful prohib-
ited; damages
and penalty;
actions for;
limit of re-
covery, &c.

Civ. '02, §
2202.

Sec. 2984. Each and every act, matter or thing in this Chapter declared to be unlawful is hereby prohibited; and in case any person or persons as defined in this Chapter engaged as aforesaid shall do, suffer or permit to be done any act, matter or thing in this Chapter prohibited or forbidden, or shall omit to do any act, matter or thing in this Chapter required to be done, or shall be guilty of any violation of the provisions of this Chapter, such person or persons shall, where no specific penalty is hereinbefore already provided for such violation, forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any Circuit Court in this State where the person or persons causing such damage can be found, or may have an agent, office or place of business; but in any such case of recovery the damage shall not be assessed at a less sum than two hundred and fifty dollars; and the person or persons so offending shall, for each offense, forfeit and pay a penalty of not less than one thousand dollars, to be recovered by the State by action in any Circuit Court aforesaid, to be brought by the Attorney-General upon the request of the Railroad Commissioners.

Only action allowed for obstructing a way is under this Section for the specific penalty.—*Ross v. R. R.*, 38 S. C., 477; 12 S. E., 101.

Roundtree v. Ry., 73 S. C., 269; 53 S. E., 424.

Action to be
regarded as
subject of
equity juris-
diction; af-
firmative re-
lief; injunc-
tion, &c.

Civ. '02, §
2203.

Sec. 2985. Any action brought, as provided in the preceding Section, to recover any penalty or damages, may be considered, and, if so brought, shall be regarded, as a subject of equity jurisdiction, and discovery and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance, preliminary or final injunctions may, without allegation or proof of damage to the plaintiff or complainant, be granted upon proper application, restraining, forbidding and prohibiting the commission or continuance of any act, matter or thing within the terms or purview of this Article prohibited or forbidden.

R. R. Commissioners v. R. R. Co., 26 S. C., 353; 2 S. E., 127.

Sec. 2986. In any action aforesaid, and upon any application for any injunction provided for in the two preceding

sections, any director, officer, receiver or trustee of any corporation or company aforesaid, or any receiver, trustee or person aforesaid, or any agent of any such corporation or company, receiver, trustee or person aforesaid, or of any of them alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear and testify and give evidence; and no claim that any such testimony or evidence might or might not tend to criminate the person testifying or giving evidence shall be of any avail; but such evidence or testimony shall not be used as against such person on the trial of any indictment against him. The attendance and appearance of any of the persons who, as aforesaid, may be compelled to appear or testify, and the giving of the testimony or evidence by such persons, respectively, and the production of books and papers by them, may and shall be compelled, the same as in the case of any other witness; and if such deposition or evidence or the production of any books or papers may be desired or required for the purpose of applying for or sustaining any injunction aforesaid, the same and the production of books and papers may and shall be had, taken and compelled by or before the clerk of the Court in which said action is pending, or in any manner provided by the laws of this State as to the giving of other depositions or evidence, or the attendance of witnesses or the production of other books or papers.

Sec. 2987. No action provided for in the three preceding sections shall be sustained unless brought within two years after the cause of action shall accrue. And any judgment rendered under the provisions of this Article shall be rendered against the person or persons violating its provisions, and against the corporation or corporations in whose service or under whose authority they perform such unlawful acts.

Sec. 2988. Any director or officer of any corporation or company acting or engaged as aforesaid, or any receiver or trustee, lessee, or person acting or engaged as aforesaid, or any agent of any such corporation or company, receiver, trustee or person aforesaid, or of one of them alone, or with any other corporation, company, person, or party, who shall directly or indirectly do, or cause or willingly suffer or permit to be done, any act, matter, or thing in this Chapter prohibited or forbidden, or directly or indirectly aid or

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Officers, employees, &c., of company compellable to testify; production of books and papers, &c.

Civ. '02, § 2204.

Limitation of action; judgments, against whom to be rendered.

Civ. '02, § 2205.

Penalty of Director for violation.

Civ. '02, § 2206.

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abet therein, or shall directly or indirectly omit or fail to do any act, matter, or thing in this Chapter required to be done, or cause or willingly suffer or permit any act, matter or thing so directed or required to be done, not to be so done, or shall directly or indirectly aid or abet any such omission or failure, or shall directly or indirectly be guilty of any infraction of this Chapter, or directly or indirectly aid or abet therein, shall, unless otherwise hereinbefore specially provided, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred dollars.

Fines and
forfeitures,
how collected.

Civ. '02, §
2207.

Sec. 2989. In the case of all fines or forfeitures, provided for or prescribed in this Chapter, such fines or forfeitures shall be collected by an action to be brought in the name of the State against the offending person or corporation in any Court of competent jurisdiction, by the Attorney-General of this State, or the Solicitor of the Circuit in which the offence is in whole or in part committed. And upon recovery in any such action, the Attorney-General or the Solicitor, as the case may be, conducting such proceedings, shall be entitled to a compensation of ten per cent. of the amount so recovered and actually collected, and the balance shall go to the State.

Sullivan v. Ry. 74 S. C., 392; 54 S. E., 586.

Persons injured,
rights of remedy
cumulative.

Civ. '02, §
2208.

Sec. 2990. This Chapter shall not be so construed as to waive or affect the right of any person injured by the violation of any law in regard to railroad corporations from prosecuting or proceeding for his private damages in any manner allowed by law. But the remedies hereby given the persons injured shall be regarded as cumulative to any and all the remedies now given by or existing at law against railroad corporations.

Kaminitsky v. R. R. Co., 25 S. C., 53.

Proceedings
in case of re-
peated viola-
tions.

Civ. '02, §
2209.

Sec. 2991. Whenever any of the railroad corporations of this State have repeatedly and wilfully violated any of the provisions of this Chapter, and have been found guilty, or judgment had against them within this State, of such violation, more than once, or penalties have been recovered in penal actions for such violations more than once, the Commissioners may, if they think it consistent with the public

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terest, instruct the Attorney-General to proceed against each corporation, in any Court of competent jurisdiction, on information in the nature of a *quo warranto*, alleging each conviction or recoveries as cause of forfeiture of their respective charters of incorporations, and upon proof of the same, there shall be judgment of ouster and final execution as in other cases of proceedings by *quo warranto*.

Sec. 2992. Any railroad company owning, leasing or operating competing railroad lines within this State in violation of law shall be subject to a penalty of one hundred dollars for every day that such competing lines are owned, leased or operated, such penalty to be recovered in any Court of competent jurisdiction in any County through which either of such competing lines may pass, by any citizen thereof who may sue for the same, one-half of such penalty to go to the party suing therefor and the other half to the State: *Provided*, That the provisions of this Chapter shall be without prejudice to any remedy which the State may be entitled to in its own behalf.

Penalty for
a railroad
company operating com-
peting lines.

Civ. '02, §
2210.

Wards v. Ry., 66 S. C., 77; 44 S. E., 748.

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CHAPTER LI.

Telegraph, Telephone and Express Companies.

Sec.

2993. Powers of telegraph and telephone companies.

2994. Rights of way, how obtained, generally.

2995. Rights of way, how obtained, from railroad companies.

2996. Proceedings to ascertain amount of damages.

2997. Manner of trial, verdict.

2998. Mistrials, new trials.

2999. Right of appeal.

3000. When condemnation proceedings may be had.

Sec.

3001. Bond for costs.

3002. Electric light companies have right to condemn.

3003. Express and telegraph companies under control of railroad commissioners.

3004. To contribute to expenses and salaries.

3005. Discrimination by telephone companies prohibited.

3006. Damages in action for negligence against telegraph companies.

A telephone company may be required by mandamus to afford equal facilities to persons desiring to use same.—State *ex rel.* Gwynn v. Citizens Tel. Co., 61 S. C., 83; 39 S. E., 262.

Telegraph and telephone companies; powers of regulated.

Civ. '02, § 2211.

1904, XXIV., 490.

Section 2993. Any telegraph or telephone company incorporated under the laws of this or any other State, upon complying with the laws of this State regulating foreign corporations, and by becoming a domestic corporation, may construct, maintain and operate its line through, upon, over and under any of the public lands of this State, under, over, along and upon any of the highways or public roads of the State; over, through or under any of the waters of this State; on, over and under the lands of any person, company or corporation in this State; and along, upon and over the right of way of any railroad or railway company in this State: *Provided*, The same are constructed so as not to endanger the safety of persons or to interfere with the use of such highways or public roads, the navigation of such waters, or the operation and running of the engines and cars of such railroads or railways, and just compensation is first paid such land owners and railroad or railway companies for such right and privilege, to be ascertained in the manner hereinafter provided for: *Provided, further*, That no telegraph, telephone, electric light or power wire, shall be erected or maintained within fifty yards of any public road or highway in this State, unless the same shall be so constructed.

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ected and maintained and provided with sufficient lightning guards or arresters (and in case of electric light or power wires, with such automatic cut offs and other devices), may be necessary for the protection of persons and property. Any person, firm or corporation erecting or maintaining any such wire or wires in violation of the provisions thereof, shall forfeit and pay as a penalty therefor five dollars a day for each day in default, after the expiration of thirty days' written notice, specifying the fault or defect in a manner of erection, construction or maintenance thereof, to be recovered at the suit of any citizen in any County in which such violation shall occur, and the sum so recovered, after paying therefrom all the expenses incurred in the prosecution of such suit, shall be paid into the County treasury of such County for ordinary County purposes.

Penalty; how recovered.

A foreign corporation cannot exercise the right of eminent domain, unless justified.—Baldwin v. Telegraph Co., 78 S. C., 422; 59 S. E., 67; Duke Postal Tel. Co., 71 S. C., 99; 50 S. E., 675. Damages.—Phillips v. American Tel. and Tel. Co., 71 S. C., 571; 51 S. E., 247.

Sec. 2994. Whenever any telegraph or telephone company desires to construct its lines on, over or under the lands of any person, company or corporation other than railroad or railways, and fails to agree with the owners of such lands upon the compensation to be paid as damages for such right and use, such company may secure such right and privilege by the institution and prosecution of condemnation proceedings against such land owners, as provided for and authorized in Article X of Chapter L of this Code, providing for securing to railroads a right of way in this State.

Rights of way; how obtained.

Civ. '02, § 2212.

Sec. 2995. Any telegraph or telephone company authorized to construct its lines upon the right of way of the railroad or railway companies in this State, are hereby authorized to contract with such companies for such right and privilege; but failing to make such contract, may file its petition in the office of the Clerk of the Court of Common Pleas of any County into or through which said railroad or railway runs, or is constructed, at any time not less than thirty days before a term of said Court, setting out therein where it is incorporated, and that it made an effort to agree with the defendant railroad or railway company for the

How rights of way may be obtained from railroad companies.

Civ. '02, § 2213.

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right to construct, maintain and operate its lines upon the right of way of such railroad or railway company in the State of South Carolina, and failed; and that it has given bond for costs in the sum of two hundred dollars, approved by the Clerk of said Court, and how and in what manner it proposes to construct its lines upon such right of way: and offering in said petition to remove, at its own expense, any of its poles, wires, structures or appurtenances, if at any time their construction interferes with the right of defendant railroad or railway company, to construct additional tracks, switches, crossings, warehouses, depots, turntables, water tanks or any other structures for the use of said railroad or railway company, upon reasonable notice given it, at its expense, to such other points or places upon said right of way as may be agreed by said companies; also, not to interfere or come in contact with any other telegraph or telephone lines already constructed on said right of way; and there shall be but one such proceeding by the petitioner against the same railroad or railway company, and the damages to be paid shall be ascertained for its entire length in this State for such rights and privileges by said proceedings: *Provided*, That the defendant in all such cases shall have the right to apply for a removal of such case for trial to any other County through which said railroad runs, as provided by law in other cases.

Condemnation, where co-tenant permits entry.—*Granger v. Tel. Co.*, 70 S. C., 528; 50 S. E., 193.

Remedy inadequate.—*Ry. Co. v. Tel. Co.*, 63 S. C., 199; 41 S. E., 307.

Permit for entry obtained by fraud.—*Baldwin v. Tel. Co.*, 78 S. C., 419; 59 S. E., 67; *Voyles v. Tel.*, 78 S. C., 43; 50 S. E., 68; *Burnett v. Tel. Co.*, 71 S. C., 146; 50 S. E., 780; *Mason v. Tel. Co.*, 71 S. C., —; 50 S. E., 781; *Brown v. Tel. Co.*, 82 S. C., 173; 63 S. E., 744.

Duties of
Clerks of
Court to sum-
mon railroad
companies,
when petition
is filed; how
damages are
assessed, &c.

Civ. '02. §
2214.

Sec. 2996. It shall be the duty of the Clerk of said Court, upon the filing of said petition, to issue summons, directed to said railroad or railway company, which, with a copy of said petition, shall be served upon the same, by serving it upon any agent in said County, as other civil process is by law authorized to be served upon railroad or railway companies in this State; and the Clerk shall docket said cause, which shall be tried at the next ensuing term of said Court, as other civil causes are tried; except that the Court shall first hear proof of the allegations of said peti-

on as to its incorporation, and its failure to agree with the defendants, which, if satisfactory to the Court, an order to that effect shall be entered, when the issue of fact involved therein, together with question as to the amount of damages to be paid the defendant by the petitioner, shall be immediately submitted to a jury, which shall be sworn as follows: "You, and each of you, do solemnly swear (or affirm) that you will assess just compensation to which the defendant is entitled from the petitioner for the construction, maintenance and operation of its lines upon the right of way of the defendant, in the manner set out in the petition on file in this cause."

Remedy by appeal against judgment on defective service, etc.—*Ex parte* Tel. Co., 72 S. C., 552; 52 S. E., 676.

Sec. 2997. Testimony as to the issues of fact involved, and irrespective of any benefit which the railroad company may derive from the proposed telegraph or telephone lines, whether a railroad or railway company will suffer by reason of the construction, maintenance and operation of the telegraph or telephone lines upon its right of way, in the manner set out in the petition, will be admissible; and after argument by counsel for the petitioner and the defendant, if the respective parties are so represented, and the Judge's charge, the jury shall return into Court their verdict, in writing, in the form following: "We, the jury, find for the defendant, and assess the damages to which it is entitled from company for the right to construct, maintain and operate its lines upon the right of way of the defendant, in the manner set out in its petition, through the parties of dollars." The Court shall give to the jury the written form of the verdict, leaving blank only the amount of damages; which verdict, with the judgment of the Court thereon, shall be entered as other judgments of said Court. The judgment of the Court shall authorize the petitioner, upon the payment of the amount of the verdict to said defendant, or to the Clerk of said Court, in respect to the order of said defendant, to construct, maintain and operate its lines in the manner set out in its petition, and not otherwise.

Manner of trial and form of verdict.
Civ. '02, § 2215.

c. 2998. In the event the jury in said cause fails to return a verdict, and is discharged by the Court, it shall

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If mistrial,
new trial is
had.

Civ. '02, §
2216.

Right of ap-
peal.

Civ. '02, §
2217.

When con-
demnation
proceedings
may be had.

Civ. '02, §
2218.

Bond for
costs, &c.

Civ. '02, §
2219.

Electric light
companies to
have right to
condemn, etc.

1904, XXIV.,
489.

be the duty of the Court to cause another jury to be empan-
elled at the same term of said Court, and again try the
issue in said cause: *Provided*, Sufficient time therefor remain.
and if not, then at the next term thereof.

Sec. 2999. Either party feeling itself aggrieved at the
verdict of the jury may appeal said cause to the Supreme
Court of the State, which shall be docketed, heard and
determined as other civil causes appealed to said Court.
But the telegraph or telephone company may proceed to
construct its lines, notwithstanding an appeal may be taken.
upon the payment into Court the amount of the verdict of
the jury as hereinbefore authorized.

Sec. 3000. If any agent or attorney for the telegraph or
telephone company shall, in writing, offer or propose to the
president or general manager of any railroad or railway
company to agree upon terms to construct its lines upon
the right of way of such railroad or railway company.
and no definite response of consent or refusal be given him
within thirty days, then such company may proceed to con-
demn in accordance with the provisions of this Chapter.
without further effort to agree upon terms for such right
of way for its use and benefit.

Sec. 3001. The telegraph or telephone company, before
instituting proceedings under this Chapter, shall give a
bond for costs in the sum of two hundred dollars, to be
approved by the Clerk of the Court in which its petition is
filed, and shall pay all costs of the proceedings, unless.
upon appeal by the railroad or railway company, the judg-
ment of the Court appealed from is sustained by the Supreme
Court; then, in such case, the railroad or railway company
shall pay all of the costs of such appeal.

Sec. 3002. Subject to the same duties and liabilities, all
the rights, powers and privileges conferred upon telegraph
and telephone companies, under Sections 2993, 2994, 2995.
2996, 2997, 2998, 2999, 3000 and 3001 of the Civil Code of
South Carolina, be, and the same are hereby, granted unto
electric lighting and power companies incorporated under
the laws of this State, or any other State, upon complying
with the laws of this State regulating foreign corporations
and by becoming a domestic corporation.

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Sec. 3003. All companies or persons owning, controlling or operating, or that may hereafter own, control or operate, a line or lines of express or telegraph, whose line or lines is or are in whole or in part in this State, shall be under the control of the Railroad Commissioners of this State, who shall have full power to regulate the prices to be charged by any company or person or persons owning, controlling or operating any line or lines of express and telegraph for any service performed by such company, person or persons; and all the powers given to said Commissioners over railroads in this State, and all the penalties prescribed against railroad companies or persons operating railroads by existing laws, are hereby declared to be of force against corporations, companies or a person or persons owning, controlling or operating a line or lines of express and telegraph doing business in this State, whose line or lines is or are wholly or in part in this State, so far as said provisions of the law can be applicable to any corporation, company, person or persons owning, controlling or operating a line or lines of express and telegraph.

Express and telegraph companies placed under powers of Railroad Commission.

Civ. '02, § 2220.

The powers of the Commissioners to regulate charges by corporations, companies and persons herein referred to shall all apply to charges by express for transportation from one point to another in this State and messages sent by telegraph from one point to another in this State.

Powers of Commissioners to regulate charges.

Sec. 3004. The telegraph and express companies shall pay their pro rata part of the salaries of the Railroad Commissioners based on their gross earnings. The said assessment against the express companies and telegraph companies shall be charged up against the said corporations, respectively, under the order and direction of the Comptroller-General, and shall be collected by the several County Treasurers in the manner prescribed by law for the collection of taxes from such corporations, and shall be paid to them as collected into the Treasury of the State in like manner as other taxes collected by them for the State: *Provided*, The Comptroller-General shall be empowered and authorized to assess and collect from the express and telegraph companies and the said companies required to pay a sum of five hundred dollars to be apportioned between said companies according to their gross earnings, and to

How salaries of the Railroad Commissioners are paid.

Civ. '02, § 2221.

Pro-rata part to be assessed and collected, &c.

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pay the same over to the Railroad Commissioners as a contingent fund to be used by the said Railroad Commission for the purpose of organizing their new departments and informing themselves upon matters pertaining thereto.

Unreasonable
discrimina-
tion by tele-
phone com-
panies pro-
hibited.

Civ. '02, §
2222.

Sec. 3005. No telephone company doing business in this State shall make any difference in the rates at which they furnish telephones and telephone service to its patrons or subscribers at its different offices or places of business in the several cities or towns, more than is necessary on account of the difference in the cost of supplying such telephones and telephone service, the number of its subscribers at its different offices or places of business being taken into consideration.

Penalty for
discrimina-
tion in charg-
es.

Any telephone company which shall violate the provisions of this Section shall pay and forfeit to each of its subscribers or patrons when it charges such higher rate double the difference between the rate so unlawfully charged and the rate which should be charged according to the provisions of this Section, to be recovered by suit in any Court of competent jurisdiction.

State *ex rel.* Gwynn v. Citizens' Tel. Co., 61 S. C., 83; 39 S. E., 257.

Telegraph
companies to
be liable in
damages for
negligence
causing men-
tal anguish.

1909, XXVI.,
84.

Sec. 3006. All telegraph companies doing business in this State shall be liable in damages for mental anguish or suffering even in the absence of bodily injury, for negligence in receiving, transmitting or delivering messages, without regard to relationship by blood or marriage, or whether such messages afforded notice of such relationship or otherwise, or that injury or damage would result if such anguish or suffering resulted as a matter of fact. Nothing contained in this Section shall abridge the rights or remedies now provided by law against telegraph companies, and the rights and remedies provided for by this Section shall be in addition to those now existing. In all actions under this Section the jury may award such damages as they conclude resulted from negligence, wantonness, wilfulness, or recklessness, of said telegraph companies: *Provided*, That when a telegram shows on its face that it relates to sickness or death, the real party for whose benefit the telegram was sent, and who suffered mental anguish by reason of the negligence or wilfulness of the telegraph company, may recover damages as herein-

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before provided, without being required to allege or prove that the telegraph company had notice or knowledge at the time the message was sent of his or her relation to it, or of the extent or scope of his or her damage: *Provided*, That nothing contained in this Section shall affect cases now pending in the Courts.

Action at common law for actual damages.—*Wallingford v. W. U. Tel. Co.*, 40 S. C., 201; 38 S. E., 443; *Gist v. Western Union Tel. Co.*, 45 S. C., 344; 38 S. E., 143; *Hill v. Western Union Tel. Co.*, 42 S. C., 367; 20 S. E., 135; *Flood v. Western Union Tel. Co.*, 40 S. C., 524; 19 S. E., 67.

Condition precedent to suit.—*Smith v. W. U. Tel. Co.*, 77 S. C., 378; 58 S. E., 6; *Toale v. W. U. Tel. Co.*, 83 S. C., 41; 64 S. E., 963.

Office hours.—*Smith v. Tel. Co.*, 77 S. C., 378; 58 S. E., 6; *Ogilvie v. Tel. Co.*, 83 S. C., 8; 64 S. E., 860.

Delay in delivery.—*Dempsey v. W. U. Tel. Co.*, 77 S. C., 399; 58 S. E., 9; *Irby v. W. U. Tel. Co.*, 77 S. C., 405; 58 S. E., 10; *Cloy v. W. U. Tel. Co.*, 78 S. C., 109; 58 S. E., 972; *Fail v. W. U. Tel. Co.*, 80 S. C., 207; 60 S. E., 17; 61 S. E., 258; *Johnson v. W. U. Tel. Co.*, 82 S. C., 87; 63 S. E., 1.

Special damages from delay.—*Cloy v. Tel. Co.*, 78 S. C., 109; 58 S. E., 12; *Amos v. Tel. Co.*, 79 S. E., 259; 60 S. E., 660; *McDowell v. W. U. Tel. Co.*, 79 S. C., 257; 60 S. E., 662; *Little v. Tel. Co.*, 79 S. C., 255; 60 S. E., 13; *Johnson v. W. U. Tel. Co.*, 81 S. C., 235; 62 S. E., 224; *Fass v. W. U. Tel. Co.*, 82 S. C., 461; 64 S. E., 235.

Punitive damages.—*Cloy v. W. U. Tel. Co.*, 78 S. C., 109; 58 S. E., 972; *Glover v. Tel. Co.*, 78 S. C., 502; 59 S. E., 526; *Balderston v. W. U. Tel. Co.*, 60 S. E., 435; 79 S. C., 160; *Ogilvie v. Tel. Co.*, 83 S. C., 8; 64 S. E., 10; *Strauss v. Tel. Co.*, 83 S. C., 22; 64 S. E., 913; *Mims v. W. U. Tel. Co.*, 82 S. C., 247; 64 S. E., 236; *Oxner v. W. U. Tel. Co.*, 82 S. C., 510; 63 S. E., 545; *Sullivan v. W. U. Tel. Co.*, 82 S. C., 569; 64 S. E., 752.

Delivery must be to addressee or one having authority to receive.—*Glover v. Tel. Co.*, 78 S. C., 502; 59 S. E., 526.

Failure to deliver telegram.—*Balderston v. Tel. Co.*, 79 S. C., 160; 60 S. E., 5; *Martin v. W. U. Tel. Co.*, 81 S. C., 432; 62 S. E., 833.

Mistake in transmitting commercial telegram; special damages.—*Baird v. W. U. Tel. Co.*, 79 S. C., 310; 60 S. E., 695.

Principal and agent—operator—evidence.—*Fail v. W. U. Tel. Co.*, 80 S. C., 7; 60 S. E., 697; 61 S. E., 258; *Mitchiner v. W. U. Tel. Co.*, 76 S. C., 2; 55 S. E., 222; *DuBose v. W. U. Tel. Co.*, 73 S. C., 218; 53 S. E., 175.

Filing claim written 60 days; sufficiency.—*Toale v. W. U. Tel. Co.*, 76 S. C., 248; 57 S. E., 117; *Smith v. W. U. Tel. Co.*, 77 S. C., 378; 58 S. E., 6.

Waiver.—*Toale v. Tel. Co.*, 76 S. C., 248; 57 S. E., 117; *Edgefield Mfg. Co. v. Maryland Casualty Co.*, 78 S. C., 73; 58 S. E., 969; *McMillan v. Ins. Co.*, 78 S. C., 433; 58 S. E., 1020, 1135; *Roberts v. W. U. Tel. Co.*, 73 S. C., 1; 53 S. E., 985; *Campbell v. W. U. Tel. Co.*, 74 S. C., 300; 54 S. E., 571. Damages—measure actual.—*Keys v. Tel. Co.*, 76 S. C., 301; 56 S. E., 962; *Chan v. W. U. Tel. Co.*, 75 S. C., 129; 55 S. E., 134; *Bowie v. W. U. Tel. Co.*, 78 S. C., 424; 59 S. E., 65.

Consult; damage too remote.—*Bird v. W. U. Tel. Co.*, 76 S. C., 345; 56 S. E., 973; *Johnson v. W. U. Tel. Co.*, 75 S. C., 54; 54 S. E., 826; *Clio Gin Co. v. W. U. Tel. Co.*, 82 S. C., 405; 64 S. E., 426.

Mental anguish—Negligence—Wilfulness.—*Roberts v. Tel. Co.*, 73 S. C., 1; 53 S. E., 985; *Smith v. Tel. Co.*, 72 S. C., 116; 51 S. E., 537; *Walker v. Tel. Co.*, 75 S. C., 512; 56 S. E., 38; *Machen v. W. U. Tel. Co.*, 72 S. C., 1; 51 S. E., 697; *Tinsley v. Tel. Co.*, 72 S. C., 350; 51 S. E., 564; *Hughes v. W. U. Tel.*, 72 S. C., 516; 52 S. E., 107; *Smith v. W. U. Tel. Co.*, 77 S. C., 378; 58 S. E., 6; *Dempsey v. W. U. Tel. Co.*, 77 S. C., 399; 58 S. E., 9; *Irby v. Tel. Co.*, 77 S. C., 405; 58 S. E., 10; *Doster v. Tel. Co.*, 77 S. C.,

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56; 57 S. E., 671; *Bowen v. Tel. Co.*, 77 S. C. 122; 57 S. E., 674; *Butler v. Tel. Co.*, 77 S. C., 148; 57 S. E., 757; *Foster v. Tel. Co.*, 77 S. C., 153; 57 S. E., 760; *Cason v. W. U. Tel. Co.*, 77 S. C., 157; 57 S. E., 722; *Lyles v. W. U. Tel. Co.*, 77 S. C., 174; 57 S. E., 725.

Mental anguish—relationship of parties.—*Johnson v. W. U. Tel. Co.*, 81 S. C., 235; 62 S. E., 244. Ordinary suspense and suffering due to relationships not mental anguish.—83 S. C., 8; *Talbert v. W. U. Tel. Co.*, 83 S. C., 68; 64 S. E., 862, 916.

Conflict of laws—Mental anguish.—*Fail v. W. U. Tel. Co.*, 80 S. C., 207; 60 S. E., 697; 61 S. E., 258.

Right of action under contract.—*Poteet v. Tel. Co.*, 74 S. C., 491; 55 S. E., 113; *Hughes v. W. U. Tel. Co.*, 72 S. C., 516, 527; 52 S. E., 107; *Rogers v. W. U. Tel. Co.*, 72 S. C., 290; 51 S. E., 773.

Damages for non-delivery of telegram sent from without in to this State is governed by law of this State.—*Hughes v. Tel. Co.*, 72 S. C., 516; 52 S. E., 107.

Mental anguish confined to social and personal matters.—*Capers v. W. U. Tel. Co.*, 71 S. C., 29; 50 S. E., 537; *Amos v. W. U. Tel. Co.*, 79 S. C., 259; 60 S. E., 660. Constitutional.—*Simmons v. Tel. Co.*, 63 S. C., 425; 41 S. E., 521; *Butler v. W. U. Tel. Co.*, 62 S. C., 222. No difference between originated and prolonged mental suffering.—*Willis v. W. U. Tel. Co.*, 69 S. C., 531; 73 S. C., 379; 48 S. E., 538; 53 S. E., 639. Complaint for mental anguish.—*Bonner v. Tel. Co.*, 71 S. C., 303; *Harrison v. W. U. Tel. Co.*, 71 S. C., 386; 51 S. E., 119; *Fass v. W. U. Tel. Co.*, 82 S. C., 461; 64 S. E., 235; *Arial v. W. U. Tel. Co.*, 70 S. C., 418; 50 S. E., 6; *Willis v. Tel. Co.*, 69 S. C., 531; 48 S. E., 538; *Butler v. Tel. Co.*, 62 S. C., 222; 49 S. E., 162; *Poteet v. Tel. Co.*, 74 S. C., 491; 55 S. E., 113; *Carter v. Tel. Co.*, 73 S. C., 430; 53 S. E., 539. Limitation of time to present claim.—*Brom v. Tel. Co.*, 71 S. C., 506; 51 S. E., 259; *Eaker v. W. U. Tel. Co.*, 75 S. C., 97; 55 S. E., 129. Mental anguish caused by suffering of relative.—*Jones v. W. U. Tel. Co.*, 70 S. C., 539; 50 S. E., 198; *Doster v. Tel. Co.*, 77 S. C., 56; 57 S. E., 671. Punitive damages.—*Hellams v. Tel. Co.*, 70 S. C., 87; 49 S. E., 12; *Toale v. W. U. Tel. Co.*, 76 S. C., 248; 57 S. E., 117; *Lathan v. W. U. Tel. Co.*, 75 S. C., 129; 55 S. E., 134; *Mitchiner v. W. U. Tel. Co.*, 75 S. C., 182; 55 S. E., 222; *Jones v. W. U. Tel. Co.*, 75 S. C., 208; 55 S. E., 318; *Harrison v. W. U. Tel. Co.*, 75 S. C., 267; 55 S. E., 450; *Murray v. Tel. Co.*, 74 S. C., 64; 54 S. E., 209. Mental anguish.—*Toale v. W. U. Tel. Co.*, 76 S. C., 248; 57 S. E., 117; *Roberts v. W. U. Tel. Co.*, 76 S. C., 275; 56 S. E., 960; *Key v. Tel. Co.*, 76 S. C., 301; 56 S. E., 962; *Amos v. Tel. Co.*, 79 S. C., 259; 60 S. E., 660; *Little v. Tel. Co.*, 79 S. C., 255; 60 S. E., 663; *McDowell v. Tel. Co.*, 79 S. C., 257; 60 S. E., 662.

CHAPTER LII.

Unincorporated Joint Stock and Other Associations.

Sec.	Sec.
3007. Joint stock companies must record articles of agreement, &c.; where.	3010. Clerk to keep book for recording articles; his fees.
3008. How suits may be brought; on whom service may be made.	3011. Not applicable to chartered companies.
3009. Liabilities of shareholders for debts after transfer; how discharged.	3012. Unincorporated associations, by what name may be sued.
	3013. On whom process may be served.
	3014. Liability under final process.

Section 3007. Every joint stock company issuing scrip or certificate for shares transferable at the will of the holder thereof hereafter formed shall, within thirty days after its formation, cause the articles of their agreement or association to be recorded in the office of the Clerk of the Court of Common Pleas of the County, with the names of the shareholders and the numbers of the shares held by each in every County in which it has an office or agency at which its business is carried on.

Joint stock companies must record articles of agreement, &c., where.

Civ. '02, § 2224.

Sec. 3008. Actions by or against such companies so recorded may be brought by or against them in the name of the company or association, without naming the shareholders therein; and in suits brought against any such company, service upon the president, chief manager, purser or other principal officer named in the said articles of agreement shall be good service upon each and every one of the said company or association at that time recorded as shareholders therein, or who were so at the time the cause of action arose, and no change or transfer of the shares pending the said action shall cause any abatement thereof.

How suits may be brought; on whom service may be made.

Civ. '02, § 2225.

Sec. 3009. No transfer of stock or shares shall avail to discharge the shareholders transferring the same from liability to third person for debts contracted after such transfer until it has been reported to the Clerk of the Court where any such company is recorded and by him or his deputy been entered in a column to be kept for that purpose annexed or in connection with the list of shareholders previously recorded.

Liability of shareholders for debt after transfer; how discharged.

Civ. '02, § 2226.

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Clerk to keep
books for re-
cording arti-
cles; his fees.

Civ. '02, §
2227.

Sec. 3010. The Clerks of the Courts of the respective Counties shall be required to keep proper books for recording such articles of agreement and association, and shall be entitled to the same fees to which the Register of Mesne Conveyances are entitled for recording papers, and twenty-five cents for registering each transfer of shares.

Not applica-
ble to char-
tered compa-
nies.

Civ. '02, §
2228.

Unincorpo-
rated associa-
tions; by what
name may be
sued.

Sec. 3011. The provisions of the foregoing Sections shall not apply to companies chartered by Act of the General Assembly.

Sec. 3012. All unincorporated associations may be sued and proceeded against under the name and style by which they are usually known, without naming the individual members of the association.

Civ. '02, §
2229.

On whom
process may
be served.

Civ. '02, §
2230.

Liability un-
der final pro-
cess.

Civ. '02, §
2231.

Sec. 3013. Process served on any agent of any unincorporated association doing business in this State, under the name and style by which it is usually known, shall be sufficient to make such association a party in any Court of record in the County in which such agent may be served.

Sec. 3014. On judgment being obtained against such association under such process, final process may issue to recover satisfaction of such judgment, and any property of the said association, and the individual property of any copartner or member thereof, found in the State, shall be liable to judgment and execution for satisfaction of any such judgment.

CHAPTER LIII.

Of Draining Corporations.

SEC.

3015. How incorporated; by what name to be known; powers.
3016. Right of entry for inspecting, &c., given; method of obtaining land.
3017. Commissioner to be appointed by Court.
3018. Their duties.
3019. In case of dispute, trial to be by jury; new trial allowed.
3020. Appeal from Commissioners to Court.
3021. Upon final determination, land to be entered on, &c., costs on appeal.
3022. Rent to be paid by persons not members for use of canal.

SEC.

3023. Terms on which adjoining owners may become members.
3024. Lands liable for debts of corporation.
3025. Who to be deemed owners of land for purposes of this Chapter; proviso.
3026. What to be deemed inland swamps.
3027. Officers of corporations, &c.
3028. When swamps or bottom lands to be deemed an inland swamp.
3029. When owner of inland swamp may have the rights of a corporation.

Section 3015. Whenever two-thirds or more of the proprietors of lands lying in any inland swamp, owning not less than two-thirds of such swamp, shall associate themselves together, by written articles of agreement, for the purpose of draining and improving the same, (to be filed and recorded in the Clerk's office of the County in which the said land, or the larger portion thereof, may lie,) they shall, hereupon, become and be a body corporate, for the purpose foresaid, by the name of the proprietors of said swamp, designated by the name by which it is commonly called and known, and shall have power and authority to make and ordain by-laws for the regulation and government of such corporation, not inconsistent with any law or statute of force within this State, and to make such assessments of money and labor on the members of the corporation as may be requisite for carrying into effect the objects thereof.

Sec. 3016. It shall be lawful for every such corporation, its agents, surveyors, engineers, and assistants, to enter upon any lands and premises lying in or near the swamp, for the draining and improvement whereof such corporation shall have been formed, and owned by persons not being

How incorporated; by what name to be known; powers.

Civ. '02, § 2282.

Right of entry for inspecting, &c., given; method of obtaining land.

Civ. '02, § 2233.

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members of such corporation, for the purpose of inspecting, examining, and surveying the same; and it shall appear by the report of a competent engineer to be necessary for the draining and improvement of such swamp that any canal, water way, ditch, drain, dam, embankment, sluice, flood-gate, or other work, should be made or constructed in, through, or upon any lands of any person not a member of the corporation, and no agreement can be made for obtaining the consent of the owner of said land thereto. then such corporation may apply, by petition, to the Circuit Court of Common Pleas of the County in which such land is situated, (and if it lies in several Counties, to the Court of either of said Counties,) setting forth the facts of the case, and praying that Commissioners may be appointed by the Court to ascertain and assess the value of the land which would be occupied by such works, and also the amount of loss or damage which the making or construction thereof would cause to the owner of the land; a copy of which petition, together with a copy of the engineer's report upon which it is founded, and notice in writing of the time and place at which the same will be brought to a hearing, shall be served upon the owner of the land at least ten days before such hearing.

Commissioners to be appointed by Court.

Civ. '02, § 2284.

Sec. 3017. Upon the hearing of such petition, unless it be denied by affidavit that it is necessary for the draining and improvement of such swamps to make or construct any works, as aforesaid, through or upon the land owned by any person not a member of the corporation, and affirmed in the same manner, that such swamp can be as well and effectually drained and improved without encroaching upon any such land, the Court shall appoint three competent and disinterested persons to be Commissioners for the purposes aforesaid.

Their duties.

Civ. '02, § 2285.

Sec. 3018. The persons so appointed, having first been duly sworn to execute and perform the duties assigned them as such Commissioners truly and impartially, and to the best of their judgment and ability, shall proceed to inspect and examine the premises, giving at least three days' previous notice of such inspection and examination to the parties interested, and, after such inspection and examination.

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to make the valuation aforesaid, and return the same in writing, under their hands to the Court.

Sec. 3019. In case of such denial and affirmation, as aforesaid, the issue so made shall be submitted in a summary manner to a jury, and upon the finding of a jury if the same shall be for the petitioners, Commissioners shall be appointed, and proceed as before directed; but if the jury find for the respondents or defendants, no appointment of Commissioners shall be made: *Provided*, That either party may move for a new trial; but not more than one new trial shall be allowed in any case on the same issue.

In case of dispute, trial to be by jury; new trial allowed.

Civ. '02, § 2236.

Sec. 3020. Either party may appeal from the valuation and assessment made by the Commissioners to the Court at the next session after such valuation and assessment, giving reasonable notice of such appeal to the other party, whereon the Court shall cause a new valuation and assessment to be made by a jury, and their verdict shall be final and conclusive, unless a new trial be granted: *Provided*, That not more than one new trial shall be allowed in any such case of valuation and assessment.

Appeal from Commissioners to Court.

Civ. '02, § 2237.

Sec. 3021. Upon the final determination of such valuation and assessment, either by the return of the Commissioners not appealed from, or in case of appeal by the finding of a jury not appealed from, or upon a second finding that a new trial is granted, and upon payment of the amount of such valuation and assessment to the party entitled to receive the same, or upon tender and refusal thereof and payment of the same into Court, it shall be lawful for such corporation, at all times thereafter, by its officers and agents, to enter upon the land to which such valuation and assessment had reference, for the purpose of making and constructing, maintaining, and keeping in repair any such work, as aforesaid. In all cases of appeal, full costs shall be paid.

Upon final determination, land to be entered on, &c.; costs on appeal.

Civ. '02, § 2238.

Sec. 3022. If any person owning land in or near any pond or swamp, for the draining and improvement whereof such corporation shall have been formed, not being a member of the same, or any tenant or agent of such person, shall, for the purpose of draining, flowing, or in any manner using, benefiting, or drawing profit from such land, the use of any canal, water way, ditch, drain, dam,

Rent to be paid by persons not members for use of canal.

Civ. '02, § 2239.

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embankment, sluice, flood-gate, or other work made or constructed by such corporation, without the consent of the corporation, such owner or tenant shall be liable to pay the corporation such reasonable rent therefor as they may demand, not exceeding one-third of the clear annual value of the land, including any addition thereto derived from the use of any such work as aforesaid.

Terms on which adjoining owners may become members.

Civ. '02, § 2240.

Sec. 3023. The owner of the land in or near any inland swamp, for the draining and improvement whereof any such corporation shall have been formed, desiring to become a member of such corporation, instead of paying rent as above provided, shall be at liberty to do so by paying his proportion of the expenses incurred by the company, with interest on the same.

Lands liable for debts of corporation.

Civ. '02, § 2241.

Sec. 3024. All the lands drained and improved by any corporation formed as aforesaid, and owned by members of such corporation, shall be liable for the debts of the corporation, and if the land of any member of any such corporation shall be taken in execution and sold to satisfy any judgment or decree against the corporation, the person whose land shall have been so taken in execution and sold, shall be entitled to receive as compensation therefor, by contribution from the other members of the corporation, the value thereof, and shall have the benefit of the lien of such judgment or decree for enforcing the payment thereof, for which purpose such judgment or decree shall remain in full force and virtue.

Who to be deemed owners of land for purposes of this Chapter; proviso.

Civ. '02, § 2242.

Sec. 3025. Any person having a legal or equitable estate in fee or for life, in land lying in any inland swamp, or in land through or upon which it may be necessary to make or construct any work for draining or improving any such swamp, (except mere trustees without beneficial interest,) shall be deemed a proprietor or owner of such land, for the purposes of this Chapter; and in every case in which any such person shall be an infant, married woman, idiot or lunatic, the guardian of such infant, the husband of such married woman, and the committee of such idiot or lunatic shall be deemed a proprietor or owner of such land, for the purposes of this Chapter: *Provided*, That such guardian, husband, or committee, shall apply in a summary way, by petition to the Court of Probate in behalf of their respective

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infants, wives, idiots or lunatics, for leave to become members of any corporation formed under this Chapter for draining and improving the swamp in which the lands of such infants, wives, idiots and lunatics are situated, in respect of such lands, and the said Court shall have power to inquire into the propriety of granting such leave, and to make such order therein as may seem meet; and if the Court shall grant leave, it shall be lawful for the person who shall have presented the petition to become a party to the articles of association for forming such corporation in respect of such land, and the same shall be as binding and effectual, in all intents and purposes, as if such person had been the actual proprietor of such land.

Sec. 3026. Every swamp, except such as are commonly called river swamps, or river bottoms, or river margins, shall be deemed an inland swamp, for the purposes of this Chapter.

What to be
deemed inland
swamps.

Civ. '02, §
2244.

Sec. 3027. Every corporation formed under the provisions of this Chapter shall have a Chairman and a Secretary, and shall keep regular minutes of its proceedings.

Officers of
corporations,
&c.

Civ. '02, §
2245.

Sec. 3028. Whenever two-thirds or more of the proprietors of the swamp or bottom lands lying on any river, creek or other water course, owning not less than two-thirds of such swamp or bottom, shall enter into written articles of agreement that such swamp or bottom shall be deemed and taken to be an inland swamp, and be subject to the provisions of this Chapter, such swamp or bottom shall thereupon be deemed and taken to be an inland swamp, and be subject to all the provisions of this Chapter, in the same manner as other inland swamps, and the owners thereof shall be invested with all the rights, powers, and privileges, hereinbefore given to the owners of inland swamps, and shall be subject to the same conditions and obligations.

When swamp
or bottom
lands to be
deemed an in-
land swamp.

Sec. 3029. Where such inland swamp is owned to the extent of two-thirds by one individual, he or she shall possess all the rights and powers conferred by this Chapter on the corporation aforesaid.

When owner
of inland
swamp may
have the right
of a corpora-
tion.

Civ. '02, §
2246.

TITLE XIII.

OF THE INTERNAL POLICE OF THE STATE

- CHAPTER LIV. *The State Hospital for the Insane.*
 CHAPTER LV. *Estrays.*
 CHAPTER LVI. *Wrecks and Shipwrecked Goods.*
 CHAPTER LVII. *Immigrants and Seamen.*
 CHAPTER LVIII. *Protection of Fish and Sheep.*
 CHAPTER LIX. *Gambling Contracts and Contracts of
Sale for Future Delivery.*
 CHAPTER LX. *Licenses.*

CHAPTER LIV.

The State Hospital for the Insane.

- | | |
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| <p>SEC.
 3030. Regents, appointment and term of office.
 3031. Corporate name and powers.
 3032. Who to be admitted as patients.
 3033. Preferences to be given in admissions.
 3034. Application for admission.
 3035. Duty of Superintendent thereon.
 3036. Certificate as to patient's condition.
 3037. Fees for conveying patients to Hospital.
 3038. Financial standing of patients to be ascertained, &c.
 3039. Proceeding when patient becomes indigent.
 3040. Proceeding when beneficiary acquires means.
 3041. Non-residents not to be admitted.
 3042. Disposition of insane non-residents.
 3043. Furlough for convalescent patients.
 3044. Police officers; powers and duties.</p> | <p>SEC.
 3045. No highways through grounds.
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 3053. Certain patients to be removed to Poor House.
 3054. Employees to be discharged for assaults on patients.
 3055. Annual report of Regents.
 3056. Lot vested in Regents.
 3057. Regents may close certain streets.
 3058. Officers and employees exempt from military duty.</p> |
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Section 3030. The Governor shall appoint Five Regents of the State Hospital for the Insane, who shall hold their offices for six years from the day of appointment, except upon the occurrence of a vacancy in the regency, when the Governor shall fill the same by an appointment for the unexpired term only.

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Regents to be appointed by Governor; number; term; vacancies.

Civ. '02, § 2247.

Sec. 3031. The said Regents, by the name of "The Regents of the State Hospital for the Insane of South Carolina," shall form a body corporate in deed and in law, for all the purposes of the said institution, with all the powers incident to corporations; and are hereby authorized and empowered to make and establish all rules, regulations and by-laws for the government of the institution, which, when made, shall be reported to the next Legislature for their approval or rejection, but until rejected by the Legislature shall be in force; and to fix the amount of the salaries or emoluments of the officers or medical attendants, not otherwise provided for by law, and to establish the rates of admission, maintenance and medical attendance for the subjects of the said institution other than beneficiaries.

Regents incorporated; their powers, &c.

Civ. '02, § 2248.

Sec. 3032. The State Hospital for the Insane shall be maintained solely for the support, custody and treatment of insane persons. No other class of patients shall be admitted, except as provided in Section 3052. No patient shall be received into the Hospital without the proper papers, hereinafter specified, from the Judge of Probate of the County in which the patient resides, together with evidence taken under Section 3038 as to the financial condition of the patient. A person shall be considered insane if fit to be a patient in the Hospital who exhibits in the first place such a degree of brain disability or mental aberration as to render him or her dangerous to others or dangerous to his or her own life or person, or dangerous to property; in the second place, this disability must not be transient like delirium in a fever, but of a more or less permanent character; in the third place, lack or loss of mental ability to properly conduct his or her usual work or business shall be considered along with aberrant conduct in determining the question of a person's insanity.

Purpose of.

Civ. '02, § 2249.

Patients.

Degree of insanity.

Sec. 3033. In order of admission into the Hospital when means of accommodation are crowded, preference shall

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Preference.Civ. '02, §
2250.

be given to recent curable cases over chronic or incurable cases. Among those to whom preference shall be last given shall be idiots or any who have been imbeciled or weak-minded from childhood, to those who are subject to epileptic convulsions, and to those whose temporary insanity is produced by the injurious use of alcoholic drinks or opiates.

Application for admission.Civ. '02, §
2251.

Sec. 3034. When a relative, friend or other citizen interested is desirous of placing a person in the State Hospital for the Insane as a patient, he shall apply to the Judge of Probate of the County in which such person resides, and the Judge of Probate, without delay, shall proceed to investigate the case by examining witnesses or not, as he sees fit, and if he is reasonably convinced that the application is a just one, he shall have prepared answers as full and explicit as is practicable to the list of interrogatories prepared by the Regents, which answers he shall forward at once to the Superintendent of the Hospital with an application for the admission of the person.

Duty of Superintendent.Civ. '02, §
2252.

Sec. 3035. On receiving the application and the answers to the specified interrogatories, the Superintendent shall promptly forward a reply to the Judge of Probate, in accordance with the crowded condition of the Hospital, and in accordance with the above instructions as to the order of admission of patients, whether the person can be received or not. And if to be received, whether as a paying patient in full or part, or a beneficiary, and if in part, what part, or how much expense to be borne by the patient, and if necessary the Superintendent may refer the application to the Board of Regents before final answer.

Admission of patients to the Hospital for the Insane regulated.Civ. '02, §
2253.

Sec. 3036. When informed by the Superintendent that the person can be received as a patient in the Hospital, and on what terms, if any, and under what class, the Judge of Probate shall call two physicians to certify to the insanity of the person for the purpose of securing his or her commitment, as is provided for in Section 3047. If the Judge of Probate believes that satisfactory evidence has been adduced to show the person to be insane, the Judge of Probate must make certificates as required by the Board of Regents and send to the Hospital the insane patient, with a certified copy of the certificate committing him or her to the Hospital. The original certificate committing the insane patient

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to the Hospital shall be kept on file in the office of the Probate Court. The Judge of Probate shall deputize the Sheriff or his deputies or other officers, or a friend or friends of the insane party, to carry him or her to the Hospital: *provided, however,* That the Superintendent of the State Hospital for the Insane, may receive into his custody and detain in said Hospital, for a period not exceeding five days, without an order from the Judge of Probate, any person as insane whose case is duly certified to be one of violent and dangerous insanity and emergency by two reputable physicians, which certificates shall be separately signed and shall conform to all the requirements as now provided by law. In addition to such certificates, an application, signed by the Magistrate of the County or the Mayor or Alderman, the Sheriff or Warden of the County, city or town in which such insane person resides or is found, shall be left with the Superintendent of said State Hospital for the Insane, and said application shall contain the answers to the list of interrogatories now in use by the Regents of said Hospital: *provided, further,* That when such insane person is committed and received in said State Hospital for the Insane, the party committing such person shall give a bond in the sum of one hundred dollars to the Treasurer of said institution, with condition that he or she will within five days procure an order for the commitment of said patient as now provided by law, and failing therein said insane person shall be removed or discharged by the Superintendent of said institution and suit brought by him (if he sees proper to do) on said bond for the cost of maintenance of said person while confined.

When Superintendent may receive patients; without order of Probate Judge.

Sec. 3037. The following fees and charges shall be paid for the conveying of said insane party: to the officer or person conveying such insane party, two dollars per day and twelve cents per mile one way, and out of which said mileage herein allowed, shall be paid all the costs and expenses of said insane person if it shall be necessary to employ a guard in conveying such insane person, such guard shall receive one dollar per day and his actual railroad fare. Said charges shall be paid out of the County treasury on order of the Supervisor. For the duties required under the provisions of this Chapter of the Judge of Probate, he shall

Fees for conveying insane person to Hospital.

Civ. '02, § 2254.

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Fees of Probate Judge.

County Boards of Commissioners to fix compensation for conveying lunatics to the Hospital.

Financial standing of patients to be ascertained.

Civ. '02, § 2255.

How decided whether patient is to pay, or be admitted as a beneficiary.

be allowed the sum of ten dollars: *Provided*, That the County Boards of Commissioners for the several Counties in this State be, and they are hereby, authorized and empowered to fix the compensation, charges and expenses to be paid and incurred in the examination of lunatics, and in conveying them to the State Hospital for the Insane, and to audit and pay claims therefor: *Provided*, That the same shall not be greater than now allowed by law, and that no claims for conveying lunatics to the State Hospital for the Insane, in excess of the actual and necessary expenses incurred in doing so, shall be audited and paid.

Sec. 3038. At the same time that the Judge of Probate investigates the fact of the mental condition of a person alleged to be insane the Judge shall also make a thorough examination of disinterested, reliable witnesses under oath, and of records, as to the financial standing of the patient, taking the testimony in writing and showing the actual value of all property, real, personal or mixed, owned by such patient, and the actual value of property, whether real, personal or mixed, owned by the husband, the wife, the father, the mother, the sons, the daughters of such patient, and also a statement of all debts due to and due by such patient and such relatives, and for this purpose the Probate Judge shall have all the powers of a special referee as to summoning, swearing witnesses, compelling attendance and ruling for contempt, which examination, reduced to writing, he shall certify and transmit to the Superintendent of the Hospital together with the report as to mental condition, as provided in Section 3034. And the Superintendent, if the question be a plain one, or the Board of Regents, if it be referred to them, shall decide whether such patient can be received as a beneficiary or as a paying patient, in whole or in part, and if in part, what payments will be required, and the terms thereof, and the Probate Judge shall be notified of the decision with no unnecessary delay, and the patient shall then be disposed of according to such decision: and if to be a paying patient, in whole, the Judge of Probate shall cause the following bond to be made by at least two solvent and responsible parties, which bond shall be sent, together with the certificates of insanity, to the Superintendent of the Hospital, to wit: Know all men by these

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presents: That we and of the
County of, in the State of South Carolina,
are held and firmly bound unto the State Hospital for the
Insane, of South Carolina, in the penal sum of three hun-
dred dollars, for the payment of which we hereby bind our-
selves jointly and severally. Sealed with our seal, and dated
this .. day of, A. D. The condition of
the above obligation is as follows:

Bond.

Form.

Whereas of the County of, State of
South Carolina, is about to be admitted as a paying patient
into the State Hospital for the Insane, of South Carolina,
now, if while he or she shall remain therein, the undersigned
shall constantly supply him or her with suitable clothing
and pay all charges of said Hospital against him or her
quarterly in advance, and whenever his or her removal shall
be required, immediately remove him or her, and if he or she
die therein, pay all reasonable expenses incurred for his
or her funeral, and in case of failure to perform promptly
and faithfully any of the above conditions, pay all losses
that accrue to said Hospital by litigation, collector's fees or
otherwise, then this obligation shall be null and void, other-
wise to remain in full force and virtue.

Witness our hands and seals this day of,
.. D.

..... (Seal.)

..... (Seal.)

I hereby certify that in my opinion the obligors in the
above bond have executed the same in good faith, and that
the amount of the penalty specified therein can be recovered
from them by due process of law.

Probate
Judge's cer-
tificate.

In witness whereof I have hereunto set my hand at
this day of, A. D.

.....
Judge of Probate of County, State of South
Carolina.

In case the patient is to pay in part, a similar bond, with
some securities, conditioned for the payment of the required
quarterly sum decided upon, shall be taken and certified
and transmitted by the Probate Judge.

Partial pay-
ment.

Sec. 3039. In any case in which satisfactory evidence is
produced before the Judge of Probate that a paying patient

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Proceedings
when patient
becomes indig-
ent.

Civ. '02, §
2256.

Proviso.

in the Hospital, has since admission, and since his or her last advanced payment of quarterly dues, become indigent in circumstances so that he or she can no longer pay the ordinary charges of the Hospital for his or her support, the Judge of Probate shall at once notify the Superintendent of the fact, who at the end of the current quarter may transfer his name from the list of paying patients to the list of those paying in part, or to the list of beneficiary patients, whose expenses are paid by the State: *Provided, however,* That the appeal to the Judge and the notice to the Superintendent shall both have been made before the close of a quarter for which payment has been made.

When patient
becomes pos-
sessed of prop-
erty.

Civ. '02, §
2257.

Sec. 3040. If in any case in which a person who has been admitted into the Hospital as a beneficiary patient it shall be brought to the attention of the Probate Judge of the County from which the patient was sent that the said patient has since admission become possessed of means sufficient to pay in part or whole for his or her support in the Hospital, the Judge shall at once investigate the case and shall report the evidence taken to the Superintendent of the Hospital for decision; and if so notified by the Hospital authorities, the Judge of Probate shall cause to be made a bond for the support of the patient as hereinbefore specified. Friends or relatives can have any patient transferred from the beneficiary to the paying class upon paying into the hands of the Treasurer of the Hospital the charges for three months in advance and giving bond for the continual payment of the same.

Non-residents
not to be ad-
mitted to
State Hos-
pital for In-
sane.

1902, XXIII,
1026.

Sec. 3041. Every one sent to the State Hospital for the Insane from any County in South Carolina, must be shown in the exemplification of proceedings to be at the time strictly a citizen of South Carolina in terms of the law relating to citizenship, viz: for adults, two years' residence: and in the case of minors, two years' residence of parents or guardian.

Disposition of
insane non-
residents.

Id.

Sec. 3042. If any person not a citizen or resident of this State, but a citizen and resident of another State of the United States, shall be ascertained to be insane, the Judge of Probate shall immediately notify the Governor of the State of which the insane person is a citizen, of the facts and circumstances, by letter (or telegraphic message if he

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thinks proper), and for a reasonable length of time the insane person shall be kept confined or restrained in said County, but shall not be committed to the State Hospital; and if the State of his citizenship shall not provide for the removal from this State to his proper State of the insane person within a reasonable time, the County Commissioners of the County in which he shall have been ascertained to be an insane person, shall cause him to be conveyed to the State of which he is a citizen, and delivered there to the Sheriff of his County or to the Superintendent of any State Hospital. The cost of such proceedings and conveyance away from this State shall be borne by the County in which the person shall have been adjudged to be insane. If any person, not a citizen of the United States, shall be ascertained to be insane, the Judge of Probate shall immediately notify the Governor of this State of the name of the insane person, the country of which he is a citizen, and his place of residence in said country, if the same can be ascertained, and such other facts in the case as he may obtain, together with a copy of the examination taken; and the Governor shall transmit said information and examination to the Secretary of State at Washington, D. C., with the request that he inform the minister resident or plenipotentiary of the country of which the insane person is supposed to be a citizen.

For foreigners
insane. Dis-
position of.

Sec. 3043. The Superintendent of the Hospital shall, under the authority of the Board of Regents, furlough any convalescent patient at the request of his or her relatives or friends for a period not exceeding three months: *Provided*, The furlough shall be granted only at the request of relatives or friends, who shall pay all the traveling expenses of the patient from and back to the Hospital, and if at the expiration of three months the patient has not been returned to the Hospital, his or her name shall be transferred from the furlough to the discharged list, and readmission cannot be obtained without recommitment in the usual manner by the Probate Judge of the County in which the person resides, in the same manner as if the person had never been a patient in the Hospital.

Furlough.
Civ. '02, §
2259.

Provided.

Sec. 3044. The Superintendent of the Hospital, under authority from the Board of Regents, shall have authority

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Police officers.

Civ. '02, § 2260.

Duties.

Powers.

to appoint or employ one or more suitable persons to act as police officers, to keep off intruders and prevent trespass upon and damage to the property of the Hospital. Such persons shall be charged with all the duties, invested with all the powers of police officers, and may eject trespassers from the Hospital buildings and grounds, and may without warrant arrest persons guilty of disorderly conduct or of trespass on the property of the institution and carry them before the nearest Magistrate before whom, upon proper affidavit charging the offence, such person so arrested may be tried and convicted as in case of persons brought before him on warrant; and such officer or officers shall have authority to summon a *posse committatus*.

No highways through grounds.

Civ. '02, § 2261.

Sec. 3045. No public highway shall be allowed on or over the grounds of the Hospital without the consent of the Board of Regents, granted by resolutions to be recorded on the minutes of the meeting of such Board.

Committee for custody of patient's estate.

Civ. '02, § 2262.

Sec. 3046. In all cases where any person shall have been adjudged insane and committed to the Hospital under and according to the provisions of this Chapter and still remains a patient therein, as well as in the case of a patient committed thereto prior to the passage of this Chapter, the Judge of Probate of the County wherein such persons reside shall have jurisdiction to appoint a committee for such person and to make all such orders as may be necessary for the custody and control of the estate of such person: *Provided*, That the Judge of Probate receives a certificate signed by at least two members of the Board of Regents and by the physician in charge to the effect that such person is in their opinion, after a full examination, insane.

Proviso.

Physicians' certificate for admission; requirements as to.

Civ. '02, § 2263.

Sec. 3047. Physicians examining persons alleged to be insane for admission to the Hospital shall certify, under oath, that they are registered in accordance with the State law, that they have examined the person separately, and that they are not related by blood or marriage to said person; they shall also certify, under oath, that, to the best of their medical knowledge, the person they recommend for admission to the State Hospital for the Insane is an epileptic, idiot or lunatic, incurable at home, and is violent or dangerous.

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Sec. 3048. Any Judge of the Circuit Court is authorized to send to the State Hospital for the Insane every person charged with the commission of any criminal offence who shall, upon the trial before him, prove to be *non compos mentis*; and the said Judge is authorized to make all necessary orders to carry into effect this power. Where the person so sent is not a pauper, he shall be supported out of his own estate, according to the regulations to be prescribed by the Court, as on a writ of *de lunatico inquirendo*.

When Judges may send persons to Hospital in criminal cases; support of.

Civ. '02, § 2264.

Sec. 3049. The Sheriff or other person in charge of any patient ordered to be conveyed to the State Hospital for the Insane, whether such patient be a beneficiary or a pauper, shall transmit the papers, or certified copies thereof, in which the order or commitment was based, to the Superintendent of the Hospital for inspection, and hold such patient without expense to the Hospital until notified by said Superintendent that the patient can be received into the Hospital; and any Sheriff or other person violating the requirements of this Section by conveying a patient to the Hospital before receiving notice from the Superintendent to do so shall be required either to keep charge of such patient in the city of Columbia or to furnish transportation back home and to the Hospital again when notified that such patient can be received.

Papers to be forwarded to Hospital.

Civ. '02, § 2265.

And patient to be retained until ordered forward.

Otherwise Sheriff to pay expenses.

Sec. 3050. No lunatic, idiot or epileptic who may be declared a fit subject for the institution by a Probate Judge and two physicians, or who shall be sent from a sister State, shall be retained in the institution more than ten days after

Lunatics, &c., not to be retained more than ten days.

Civ. '02, § 2266.

the first meeting of the Board of Regents, subsequent to his admission, except where there shall be entered in the record of the institution an order for his retention, made after full examination of his state of mind by the medical attendant

Unless order for retention is entered on record.

attendants and not less than two of the Regents, and upon such order being made it shall be the duty of the Secretary of the Regency to make out a certified copy of the declaration

Copy order or retention to be sent to Probate Judge.

of the Probate Judge and physicians, and of the order of retention, and immediately send the same to the Judge of Probate of the County wherein such lunatic, idiot or epileptic shall reside, who shall thereupon make such order in relation to the custody of the estate of the said subject as

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Who shall
take order for
custody of es-
tate.

would have been made had the proceedings been under writ *de lunatico inquirendo*.

Discharge of
lunatics.

Sec. 3051. Whenever any lunatic or epileptic shall have recovered, it shall be the duty of the Regents to discharge him or her from the State Hospital for the Insane.

Civ. '02, §
2267.

Inebriates to
be received
only as pay
patients; reg-
ulations as
to.

Sec. 3052. Inebriates or persons addicted to the opium or chloral habit shall not be received in the State Hospital for the Insane for treatment, unless they are dangerous or violent; and should any Probate Judge, Circuit Judge, or Board of County Commissioners commit such a person who is a beneficiary, the Board of County Commissioners of the respective Counties from which such persons are sent, shall pay to the Superintendent or Treasurer of the State Hospital for the Insane, for the maintenance of said beneficiary, the same sum upon the same terms required for pay patients; and no such beneficiary patient shall be admitted unless the County from which such patient comes shall, at the time of admission and as a prerequisite thereto, pay to the said Superintendent two months' board (\$41.60) in advance; and if the said County shall fail to pay subsequent claims for board for such patients as they shall fall due, to wit: at the beginning of each month, then the Superintendent of the State Hospital for the Insane shall have the right, and it shall be his duty, to file the account therefor as other claims are filed with the Board of County Commissioners; and if they refuse to approve and pay the same, to take legal steps to enforce the approval and payment of same; said account to be made out in favor of the Board of Regents of the State Hospital for the Insane, in whose name such proceedings shall be had: *Provided, however,* That any inebriate or person addicted to the opium or chloral habit, voluntarily making application to be admitted into the Hospital for treatment, may, at the discretion of the Board of Regents, be received as a pay patient; but no such person shall be received or retained in the Hospital when the accommodations provided for patients shall be inadequate for the proper care and treatment of lunatics and others lawfully committed to the Hospital.

Civ. '02, §
2268.

Sec. 3053. It shall be the duty of County Supervisor or the municipal authorities of the city of Charleston, within

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thirty days after due notice from the Superintendent, to remove from the Hospital any patient, a beneficiary from their County or their city, as the case may be, who is simply physically or mentally infirm, or is a harmless imbecile, idiot or epileptic, and they shall take care of all such persons in their respective poor-houses. But in all cases where patients are discharged under the provisions of this Section, it shall be lawful to retain them in the Hospital as pay patients.

Certain patients to be removed from the Hospital and cared for in Poor Houses; by whom, and upon what notice, &c.

Civ. '02, § 2269.

Sec. 3054. It shall be the duty of the Regents to remove from office, and cause to be indicted, any person employed in the said institution who shall assault any idiot, lunatic or epileptic, or use towards any such idiot, lunatic or epileptic any other or greater violence than may be necessary for his or her restraint, government or cure.

Employees to be discharged, &c., for assault on patients.

Civ. '02, § 2270.

Sec. 3055. The Regents shall report annually to the Legislature the state and condition of the institution, fully and particularly; and they shall also annually report to the Comptroller-General the amount of income of said institution, and the amount of expenditures and the items thereof.

Annual report of Regents.

Civ. '02, § 2271.

Sec. 3056. The lot upon which the Hospital stands, containing four acres, butting and bounding on Upper boundary, Bull, Pickens and Sumter streets, is vested in the Board of Regents of said Hospital and their successors in office, for the uses and purposes of the Hospital.

Lot vested in Regents of Hospital.

Civ. '02, § 2272.

Sec. 3057. The Board of Regents are authorized to close up and use, for the purpose of said Hospital, so much of Pickens Street, in the City of Columbia, as lies between Sumner and Upper Streets of said city, to retain such portion of Upper Street as they have already enclosed, and so to close that part of Upper Street, in the plan of the said city, lying between Henderson and Barnwell Streets and adjacent to the Hospital grounds.

May close up and use certain streets.

Civ. '02, § 2273.

Sec. 3058. All guards, keepers, employees and other officers employed at the Hospital shall be exempted from serving on juries, roads, and from all military duty.

Officers and employees exempt from jury and military duty.

Civ. '02, § 2274.

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CHAPTER LV.

Estrays.

SEC.

3059. To be advertised and taken before a Magistrate for appraisement.

3060. Appraisement, certificate of, to be filed.

3061. To be advertised by Magistrate.

3062. To be sold if not claimed; note of purchaser may be sued on by County Commissioners.

3063. Pay for advertisement.

3064. Owner of estray may claim it after sale and before maturity of note; disposition of purchase money.

SEC.

3065. Amount, &c., of sale, to be recorded; record open for inspection.

3066. Compensation for keeping estray; proviso.

3067. Unlawful for stone-horse to run at large; fee for getting.

3068. Magistrate and Clerk to perform duties under this Chapter; penalty.

3069. Penalty to takers of estray for not obeying the law.

To be advertised and taken before a Magistrate for appraisement.

Civ. '02, § 2275.

Sec. 3059. If an estray shall be found wandering in or about the plantation of any freehold or settled resident, such freeholder or resident is hereby authorized and empowered to take the same into possession, and shall advertise the same within three days thereafter, in three or more public places in the said County wherein the said person or persons so taking up the said estray may reside; and the said person or persons shall, within ten days after advertising as aforesaid, take such estray to the nearest Magistrate, excepting hogs, sheep, neat cattle, or goats, which shall be appraised at the place taken up.

Appraisement, certificate of, to be filed.

Civ. '02, § 2276.

Sec. 3060. Every Magistrate before whom an estray shall be returned, shall cause the same to be appraised, on oath, by three proper persons in the vicinity, who shall certify their appraisement under their hands, together with an accurate description of the color, size, age, brands, and marks, of said estray; whereupon the said Magistrate shall enter the said certificate at large in his book; and shall, within ten days thereafter, send a duplicate of the said certificate to the Clerk of the Court of the County in which said estray shall be taken up.

Sec. 3061. At the same time such Magistrate shall cause the estray, if other than a horse or mule, to be advertised at

three or more public places in the County, one of which shall be on the Court House door, for two months, together with a notice where said estray is to be found; and, if a horse or mule, by advertising at the same places and in the nearest gazette once a month for four months.

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To be advertised by Magistrate.

Civ. '02, § 2277.

Sec. 3062. Where no owner shall appear and prove his property within the time directed for advertising, it shall be lawful for such Magistrate and he shall cause the same to be publicly advertised for ten days, and sold on a credit of six months, except the costs, to be paid in cash; and the purchaser shall give his note, with approved security, to the Magistrate, in the name of the County Board of Commissioners in the County wherein such estray shall be taken up; which note the said Magistrate shall deliver immediately to the said County Board of Commissioners for the County in which such estray shall be taken up, who shall have power, in default of payment, to sue for and recover the same.

To be sold if not claimed; note of purchaser may be sued on by County Commissioners.

Civ. '02, § 2278.

Sec. 3063. For printing the said advertisement, the printer shall be entitled to one dollar, which shall be paid by the owner of such estray, or taken out of the sales of the same.

Pay for advertisement.

Civ. '02, § 2279.

Sec. 3064. If any person shall put in a just and lawful claim to such estray at any time after the sale, and before the note becomes due, the County Board of Commissioners are hereby directed to give up the note to the claimant, on his paying the customary fees; but if no such owner shall appear, the County Board of Commissioners shall cause the amount of the same to be collected and appropriated to the proper use of the County.

Owner of estray may claim it after sale and before maturity of note; disposition of purchase money.

Civ. '02, § 2280.

Sec. 3065. The Clerk of the Court shall file the duplicate certificate of the appraisers and Magistrate in all instances of estrays taken up, where the same shall be returned, and so the certificate of such Magistrate, of the amount and disposition of the funds arising therefrom; the same being entered in the book of estrays, which shall always be subject to the inspection of any person desiring to examine the same, free of charge.

Amount, &c., of sale to be recorded; record open to inspection.

Civ. '02, § 2281.

Sec. 3066. As a compensation for keeping and maintaining estrays until the time of sale, it shall and may be lawful for the taker up, at his option, either to put them to moder-

Compensation for keeping estray; proviso.

Civ. '02, § 2282.

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ate labor or use, if a horse, mare or gelding, ass or mule, or to demand and receive therefor such a reasonable allowance as the Court or Magistrate shall judge adequate: *Provided, always,* That when any estray shall have been put to labor or use, the taker up shall be obliged to produce it at the time of sale, unavoidable accidents excepted, in as good order and condition as it was in when appraised; and shall be liable to an action for damages by the owner of any such estray for any abuse thereof, if the said owner shall claim the said estray within the time prescribed in this Chapter.

Unlawful for
stone-horse to
run at large;
fee for geld-
ing.

Civ. '02, §
2283.

Sec. 3067. If any person shall wilfully suffer any stone horse, above the age of twenty months, to run at large in the woods, it shall be lawful for any person to catch and geld such horse, and he shall have a right to recover from the owner thereof two dollars and fifty cents for so doing. any law to the contrary notwithstanding.

Magistrate
and Clerk to
perform du-
ties under
this Chap-
ter; penalty.

Civ. '02, §
2284.

Sec. 3068. Any Magistrate or Clerk of Court, or person taking up any estray, who shall refuse or neglect to perform the duties prescribed by this Chapter, shall forfeit and pay the sum of twenty-five dollars, to be recovered and applied to the use of any person who shall inform and sue for the same, and shall moreover be liable in damages to the party aggrieved.

Penalty on
takers of
estrays for
not obeying
the law.

Civ. '02, §
2285.

Sec. 3069. Each and every person who shall take into his or her possession any estray, and neglect to pursue the directions of this Chapter, or shall convert to his or her use any such estray, shall be liable to a fine of twenty dollars, to be recovered upon information, in any Court of record having jurisdiction of the same in this State, to be given to the informer; and shall also be liable to an action by the owner of any such estray for damages.

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CHAPTER LVI.

Of Wrecks and Shipwrecked Goods.

c.
3070. Unclaimed stranded goods to be taken into custody and delivered to County Treasurer, who shall advertise the same, &c.

3071. Entry into stranded vessels may be repelled by force; penalty for carrying away saved goods.

Sec.

3072. Magistrates to issue warrants for stolen goods; penalty for retaining.

3073. Salvage allowed informer.

3074. Goods unlawfully taken from vessels may be seized and delivered to owner; reward allowed; penalty for offering for sale.

Section 3070. If any ship or vessel, goods or effects, shall stranded, or cast on shore, and no person appears to claim the goods which shall be so saved, two or more neighboring Magistrates shall take the same into their custody or possession, and, as soon as may be, give notice and a schedule, in writing, of the different articles, (such Magistrates keep a copy thereof,) to the County Treasurer, and deliver up all such goods and effects to the said Treasurer or his order, who shall be responsible for the same, and who shall give public notice thereof in the gazettes of this State at least eight months, if no claim should be made; and if the goods be not claimed within twelve months after such delivery to the County Treasurer as aforesaid, they are to be publicly sold, (or, if the goods be perishable, to be sold forthwith,) and, after deducting reasonable charges, the residue shall be lodged in the County Treasury, for the use of the State, subject to the claim of the proprietor, his agent or attorney.

Unclaimed
stranded
goods to be
taken into
custody and
delivered to
County Treas-
urer, who
shall adver-
tise the same,
&c.

Civ. '02, §
2286.

c. 3071. Any person or persons not empowered, who enter, or try to enter, forcibly on board any ship or vessel stranded or cast away, or in distress, or molest in the preservation thereof, may be repelled by force. And any person or persons who shall carry away, or secrete, any goods and effects saved as aforesaid, shall forfeit and pay the value, to be recovered by the owner of such goods, or his agent, in any Court of competent jurisdiction in this

Entry into
stranded ves-
sels may be
repelled by
force; penalty
for carrying
away saved
goods.

Civ. '02, §
2287.

3072. It shall and may be lawful for any Magistrate, upon information, upon oath, of any part of a cargo or

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Magistrates
to issue war-
rants for
stolen goods;
penalty for
retaining.

Civ. '02, §
2288.

effects of any vessel lost or stranded on or near the seacoast being unlawfully conveyed or concealed, or of some cause of reasonable suspicion thereof, to issue his warrant for searching for such goods or effects as in cases of stolen goods; and if the same be found in any house or other place, or in the possession of any person not legally authorized to have the same, and the person in whose possession the same shall be found shall not immediately, upon demand, deliver the same to the owner or person lawfully authorized to receive them, he or she shall forfeit and pay to the owner or owners of such goods, his or their agent or attorney, treble the value for such refusal.

Salvage al-
lowed in-
former.

Civ. '02, §
2289.

Sec. 3073. Any person discovering where any such goods are wrongfully bought, sold, or concealed, so that the owner, his agent or attorney, shall regain them, shall be entitled to a reasonable salvage, not exceeding twenty-five per cent. on the value, to be adjusted by the next neighboring Magistrate, who is thereby required to adjust the same.

Goods unlaw-
fully taken
from vessels
may be seized
and delivered
to owner; re-
ward al-
lowed; pen-
alty for of-
fering for
sale.

Civ. '02, §
2290.

Sec. 3074. If any person or persons shall offer or expose to sale any goods or effects whatsoever belonging to any ship or vessel lost, stranded, or cast on shore as aforesaid, and unlawfully taken away, or reasonably suspected to have been, then and in every such case it shall be lawful for the person or persons to whom the same shall be so offered for sale, or any Magistrate, to stop and seize the said goods and effects, and if the person or persons who shall have offered the said goods and effects to sale, or some other person in his or her behalf, shall not, within ten days next after such seizure, make out to the satisfaction of such Magistrate that they became honestly possessed of them, then the said goods and effects shall, by order of the said Magistrate, be forthwith delivered over to and for the use of the owner thereof, on proof of his claim and the payment of a reasonable reward, not exceeding five per cent. on the value, for such seizure, (to be ascertained by the said Magistrate) to the person who shall seize the same. And he, she, or they, who offered such goods and effects for sale as aforesaid, shall forfeit and pay to the owner or owners twice the value of such goods, to be recovered according to law.

CHAPTER LVII.

Of Immigrants and Seamen.

EC.

3075. Immigrants' hotel or boarding house keepers to be licensed.

3076. Hotels not licensed not to solicit boarders, &c.

3077. City Council of Charleston may grant license.

3078. City Council may revoke license.

3079. Fees for license.

3080. City Council to furnish badges to licensee.

SEC.

3081. Agents must wear badges.

3082. No other person to wear badge.

3083. None but pilot or public officer to board vessels.

3084. Owners, &c., of vessels not to permit unauthorized persons to board.

3085. Hotel keepers to leave vessels when ordered.

3086. Meaning of word "vessel."

3087. Seamen's debts.

3088. Seamen's goods.

Section 3075. It shall not be lawful for any person to keep, conduct, or carry on, either as owner, proprietor, agent, or otherwise, any sailors' or immigrants' boarding house, or sailors' or immigrants' hotel, in the City of Charleston, without having a license from the City Council thereof.

Sec. 3076. It shall not be lawful for any person, not having the license in this Chapter provided, or not being the regular agent, runner, or employee of a person having such license, to invite, ask, or solicit, in the city or harbor of Charleston, the boarding or lodging of any of the crew employed on any vessel, or of any immigrant arriving in the said City of Charleston.

Sec. 3077. The City Council shall take the application of any person applying for a license to keep a sailors' or immigrants' boarding house, or sailors' or immigrants' hotel, in the City of Charleston, and upon satisfactory evidence to them of the respectability and competency of such applicant, and of the suitableness of his accommodations, shall issue him a license, which shall be good for one year, unless sooner revoked by said City Council, to keep a sailors' or immigrants' boarding house in the City of Charleston, and to invite and solicit boarders for the same.

Sec. 3078. The City Council may, upon satisfactory evidence of the disorderly character of any sailors' or immigrants' hotel or boarding house, licensed as hereinbefore

Immigrants' hotel or boarding house keepers to be licensed.

Civ. '02, § 2291.

Hotels not licensed not to solicit boarders, &c.

Civ. '02, § 2292.

City Council of Charleston may grant license.

Civ. '02, § 2293.

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City Council
may revoke
license.Civ. '02, §
2294.

provided, or of the keeper or proprietor of any such house or of any force, fraud, deceit, or misrepresentation, in inviting or soliciting boarders or lodgers for such house, on the part of such keeper or proprietor, or any of his agents, runners, or employees, revoke the license for keeping such house.

Fees for
license.Civ. '02, §
2295.

Sec. 3079. Every person receiving the license hereinbefore provided for shall pay to the City Council aforesaid the sum of twenty dollars.

City Council
to furnish
badges to
licensee.Civ. '02, §
2296.

Sec. 3080. The said City Council shall furnish to each sailors' or immigrants' hotel or boarding house keeper licensed by them as aforesaid, one or more badges or shields on which shall be printed or engraved the name of such hotel or boarding house keeper, and the number and street of his hotel or boarding house; and which said badges or shields shall be surrendered to said City Council upon the revocation by them, or expiration of any license granted by them, as herein provided.

Agents must
wear badges.Civ. '02, §
2297.

Sec. 3081. Any sailors' or immigrants' hotel or boarding house keeper, and every agent, runner, or employee of such hotel or boarding house keeper, when boarding any vessel in the harbor of Charleston, or when inviting or soliciting the boarding or lodging of any seaman, sailor, or person employed on any vessel, or of any immigrant, shall wear, conspicuously displayed, the shield or badge referred to in the foregoing Section.

No other
person to
wear badges.Civ. '02, §
2298.

Sec. 3082. It shall not be lawful for any person, except those named in the preceding Section, to have, wear, exhibit, or display any such shield or badge to any of the crew employed on any vessel, or to any immigrant so arriving in the City of Charleston, with the intent to invite, ask, or solicit the boarding or lodging of such immigrant, or of any of the crew employed on any vessel being in the harbor of Charleston.

None but
pilot or public
officer to board
vessels.Civ. '02, §
2299.

Sec. 3083. It shall not be lawful for any person, except a pilot or public officer, to board, or attempt to board, a vessel arriving in the port or harbor of Charleston, before such vessel shall have been made fast to the wharf, without first obtaining leave from the master or person having charge of such vessel, or from her owners or agents.

Sec. 3084. It shall not be lawful for any owner, agent, master, or other person having charge of any vessel arriv-

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ing or being in the port of Charleston, to permit or authorize any sailors' hotel or boarding house keeper, not licensed as herein provided, or any agent, runner, or employee of any sailors' or immigrants' hotel or boarding house, to board, or attempt to board, any vessel arriving or lying or being in the harbor or port of Charleston, before such vessel shall have been made fast to the wharf, or anchored, with intent to invite, ask, or solicit the boarding of any of the crew employed on such vessel.

Owners, &c., of vessels not to permit unauthorized persons to board.

Civ. '02, § 2300.

Sec. 3085. It shall not be lawful for any sailors' or immigrants' hotel or boarding house keeper, or the employees of any sailors' or immigrants' hotel or boarding house keeper, having boarded any vessel made fast to any wharf in the port of Charleston, to neglect or refuse to leave said vessel after having been ordered so to do by the master or person having charge of such vessel.

Hotel keepers to leave vessels when ordered.

Civ. '02, § 2301.

Sec. 3086. The word "vessel," as used in the preceding section, shall include vessels propelled by steam.

Meaning of word "vessel."

Sec. 3087. It shall not be lawful for any keeper of a public or lodging house for seamen, at any time, to recover from any seaman any debt exceeding one dollar; and no debt exceeding said sum, incurred by any seaman to any other person, shall be recoverable after he has signed an agreement to proceed on a voyage, until such voyage shall have been concluded.

Civ. '02, § 2302.

Seamen's debts.

Civ. '02, § 2203.

Sec. 3088. It shall not be lawful for any keeper of a public or lodging house for seamen to withhold or detain any chest, bed or bedding, clothes, tools, or other effects, from any seaman for any debt alleged to have been contracted by such seaman; and in case any such chest, bed, bedding, clothes, tools, or other effects, as aforesaid, shall be withheld or detained, contrary to this Chapter, it shall be lawful for any magistrate, upon complaint, upon oath, to be made by any such seaman, or on his behalf, to inquire into the matter, and, if he shall see fit, by warrant under his hand and seal, to cause any such property or effects so withheld or detained contrary to this Chapter, to be seized and delivered over to the seaman.

Seamen's goods.

Civ. '02, § 2304.

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CHAPTER LVIII.

Gambling Contracts and Contracts of Sale for Future Delivery.

ARTICLE 1. Gambling Contracts.

ARTICLE 2. Contracts of Sale for Future Delivery.

ARTICLE I.

GAMBLING CONTRACTS.

SEC.

3089. Loser of money at cards, &c., may recover by action; when, &c.

3090. If loser does not sue, other persons may; amount recoverable; how apportioned.

SEC.

3091. Orders for discovery must be answered on oath.

3092. Notes, securities, &c., to secure wagers void.

3093. Conveyances and incumbrances on land; to whom title, transferred, &c.

Loser of money at cards, &c., may recover by action, when, &c.

Civ. '02, § 2305.

Section 3089. Any person who shall, at any time or sitting, by playing at cards, dice table, or other game or games whatsoever, or by betting on the sides or hands of such as do play at any of the games aforesaid, lose to any one or more person or persons so playing or betting, in the whole the sum or value of fifty dollars, and shall pay or deliver the same or any part thereof, shall be at liberty, within three months then next ensuing, to sue for and recover the money or goods so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action, to be prosecuted in any Court of competent jurisdiction.

The money or goods must be lost at one time or at one sitting.—*Trumbo v. Finley*, 18 S. C., 305. Horse racing is included in this Section.—*Barrett v. Hampton*, 2 Brev., 226; *Atchison v. Gee*, 4 McC., 241. Wager on horse race for twenty dollars not illegal.—*Barrett v. Hampton*, 2 Brev., 226. Contract to forfeit deposit on refusal to run horse race for wager above fifty dollars void.—*Corley v. Berry*, 1 Ball., 593. No recovery beyond the time limited.—*Owen v. Davis*, 1 Ball., 315; *Willis v. Hockaday*, 1 Speer, 379. Principal may recover money lost by his agent.—*Allen v. Watson*, 2 Hill, 319. The thing lost, and not the articles delivered in payment of it, can be recovered.—*Whellock v. Bobo*, Harp., 421. Recovery may be had of stakeholder, if demanded before he pays it over.—*Bledsoe v. Thompson*, 6 Rich., 44. Or if he paid it over after notice not to do so.—*Livingston v. Wootans*, 1 N. & McC., 178. One winner can recover of his joint winner his share of money received on note for wager.—*Owen v. Davis*, 1 Ball., 315.

Section 3090. In case the person or persons who shall receive such money or other thing as aforesaid, shall not, within the time aforesaid, really and *bona fide*, and without collusion, sue, and with effect prosecute for the money and other things so by him or them lost, and paid and delivered as aforesaid, it shall and may be lawful to and for any person or persons, by any such action or suits as aforesaid, to sue for and recover the same, and treble the value thereof, with costs of suit, against such winner or winners aforesaid; the one moiety thereof to the use of the person or persons that will sue for the same, and the other moiety to the use of the County where the offense shall have been committed.

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If losers do not sue, any other person may.

Civ. '02, § 2306.

Sumbo v. Finley, 18 S. C., 365.

Sec. 3091. Any person or persons who, by virtue of the provisions herein contained, shall or may be liable to be held for the said moneys, or other things so won, shall be ordered and compellable to answer, upon oath, such orders as shall be made against him or them, for discovering the sum and sums of money, or other things so won and lay, as aforesaid.

Orders for discovery.

Civ. '02, § 2307.

Sec. 3092. All notes, bills, bonds, judgments, mortgages, or other securities or conveyances whatsoever, given, made, or entered into, or executed, by any person or persons whatsoever, where the whole or any part of the consideration of such conveyances or securities shall be for any money or valuable things whatsoever won by cock-fighting, horse-racing, or by gaming, or playing at cards, dice tables, bowls, or other game or games whatsoever, or by betting on the sides or hands of such as do game at any of the games aforesaid, or any other game, or games, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such cock-fighting, horse-racing or play, to any person or persons so gaming or betting as aforesaid, or that shall, during such cock-fighting, horse-racing, or play, so bet, shall be utterly void, frustrate, and of non-effect, to all intents and purposes whatsoever.

Notes, &c., given to secure wagers, void.

Civ. '02, § 2308.

Hett v. Hampton, 2 Brev., 226; *Tidmore v. Boyce*, 2 Mill, 200. Holder of note payable to bearer cannot recover from maker.—*Sharp v. Smith*, 3; *Mordecai v. Dawkins*, 9 Rich., 262. Note given for goods by third

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party, won and actually delivered and transferred to him, is good.—*With v. Hockaday*, 1 Speer, 379. Generally as to wagers.—*Laval v. Myers*, 1 B. 486; *Rice v. Gist*, 1 Strob., 82.

Grants, conveyances, &c., of land, void.

Civ. '02, § 2309.

Sec. 3093. Where such mortgages, securities, or other conveyances, shall be of lands, tenements, or hereditaments, or shall be such as to encumber or affect the same, such mortgages, securities or other conveyances, shall enure and be to and for the sole sole use and benefit of, and shall devolve upon, such person or persons as shall have been or may be entitled to such lands, tenements, or hereditaments, in case the said grantor or grantors thereof, or the person or persons so encumbering the same, had been dead, and as if such mortgages, securities, or other conveyances, had been made to such person or persons by the person or persons so encumbering the same; and all grants and conveyances to be made for the preventing of such lands, tenements, or hereditaments from coming to, or devolving upon, such person or persons, hereby intended to enjoy the same, as aforesaid, shall be deemed fraudulent and void, and of no effect, to all intents and purposes whatsoever.

ARTICLE II.

CONTRACTS OF SALE FOR FUTURE DELIVERY.

SEC.

3094. Contracts for sale of certain bonds, stocks and products for future delivery, when void.

3095. Upon whom the burden of proof shall be in actions on such contracts.

SEC.

3096. Money paid on account of loss may be sued for; evidence; liability of agent.

3097. Orders for discovery to be answered upon oath, &c.

3098. Notes and securities to cover money lost void.

When contracts for sale or barter of certain bonds, &c., for future delivery shall be void.

Civ. '02, § 2310.

Section 3094. Every contract, bargain or agreement, whether verbal or in writing, for the sale or transfer at any future time of a certificate, bond or other evidence of debt, due from the United States or from an individual State, or of stock or a share of interest in the stock, or of the bonds of any bank, city, town, village or incorporation of any kind whatsoever incorporated under any law of the United States or of any individual State, or for the sale or transfer at any future time of any cotton, grain, meat,

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r any other animal, mineral or vegetable product of any
nd every kind, shall be void unless the party con-
racting, bargaining or agreeing to sell or transfer the
ame is at the time of making such contract, bargain or
greement the owner or assignee thereof, or is at the time
uthorized by the owner or assignee thereof or his duly
uthorized agent to make and enter into such contract, bar-
ain or agreement for the sale or transfer of such certificate,
ond or other evidence of debt, cotton, grain, meats or other
animal, mineral or vegetable products so contracted for,
unless it is the *bona fide* intention of both the parties to
e said contract, bargain or agreement, at the time of
aking the same, that the said certificate, bond or other
vidence of debt, cotton, grain, meats or other animal, min-
al or vegetable product so agreed to be sold and trans-
rred shall be actually delivered in kind by the party.
ntracting to sell and deliver the same, and shall be actu-
ly received in kind by the party contracting to receive
e same at the period in the future mentioned and specified
the said contract, bargain or agreement for the transfer
d delivery of the same.

When such
contracts
shall be
valid.

For laws as to sales for future delivery, see Criminal Code, Sections 252-
).

Such contract before this Act not assumed to be a gambling contract with-
evidence to show it.—Williams v. Conner, 14 S. C., 62.

The object of this statute, and the requisites for a valid contract of sale for
ure delivery, are stated in Gist v. Tel. Co., 45 S. C., 344; 23 S. E., 143;
dan v. Doty, 50 S. C., 542; 27 S. E., 941; 56 S. C., 111; 34 S. E., 69;
rvey v. Doty, 54 S. C., 382; 32 S. E., 501; 50 S. C., 548; 27 S. E., 943.
urchase by Mfg's in course of business.—State v. McGinnis, 51 S. E., 50;
pson v. Camperdown Mills, 82 Fed., 836.

The true test of the validity of the contract is whether it could be set-
only in money, and in no other way; or whether the party selling
ld tender and compel the acceptance of the particular commodity sold;
whether the party buying could compel the delivery of the commodity
hased." Contract sustained.—Sampson v. Camperdown Cotton Mills, 82
., 836. See also Springs & Co. v. Carpenter, 154 Fed., 486; 83 C. C. A.,
; Sampson v. Camperdown Cotton Mills, 82 Fed., 833; Parker v. Moore,
Fed., 470; reversed C. C. A., 115 Fed., 799; on circuit again, 125 Fed.,
; Cousar v. Heath, Witherspoon & Co., 80 S. C., 466; Randolph v.
ker, 78 S. C., 161; Barr v. Satcher, 72 S. C., —; 51 S. E., 530; Knight
cey & Co. v. Aetna Cotton Mills, 80 S. C., 213.

Sec. 3095. In any and all actions brought in any Court
enforce such contracts, bargains or agreements, or to
lect any note or other evidence of indebtedness, or any
m or demand whatever, founded upon any such con-
ct, bargain or agreement, the burden of proof shall be

Upon whom
the burden of
proof shall be
in such ac-
tions.

Civ. '02, §
2311.

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upon the plaintiff to establish that at the time of making such contract, bargain or agreement the party making the same was the owner or assignee of the certificate, bond or other evidence of debt, cotton, grain, meats or other animal mineral or vegetable product so agreed to be sold and transferred, or was at the time authorized by the owner or assignee thereof, or his duly authorized agent, to make and enter into such contract, bargain or agreement, or that at the time of making such contract, bargain or agreement it was the *bona fide* intention of both parties thereto that the said certificate, bond or other evidence of debt, cotton, grain, meats or other animal, mineral or vegetable product so agreed to be sold and transferred should be actually delivered and received in kind by the said parties at the future period mentioned therein.

Gist v. Tel. Co.; Riordan v. Doty, *supra*.

Persons so contracting may sue and recover amount lost upon proof.

Civ. '02, § 2312.

Liability of agent or middleman.

Sec. 3096. Any person or persons so contracting, bargaining or agreeing for the sale or transfer of any of the aforesaid commodities in violation of the provisions of this Chapter who shall pay over to any one or more person or persons any sum or sums of money for and on account of a loss sustained by reason of such contract, bargain or agreement shall be at liberty, within three months next ensuing after such payment, to sue and recover the amount so lost and paid, or any part thereof, from the person or persons to whom he or they shall have paid the same, with costs of suit, by action, to be prosecuted in any Court of competent jurisdiction, and the oath of the loser that he has actually paid over the money to the party against whom the action is brought shall be regarded as *prima facie* establishing the case against such party; and any person who shall act as agent or middleman in the making or execution of any such contract, or who shall accept or receive and forward any moneys, drafts or bills of exchange in furtherance thereof, shall be held liable in an action by the party to recover the amount of value of the money so received, or the value of the draft or bill of exchange so accepted or forwarded.

Brokers and middlemen occupy the same position as the contracting parties — Riordan v. Doty, 50 S. C., 546; 27 S. E., 941; Harvey v. Doty, 54 S. C. 382; 32 S. E., 501. The words "any such contract" refer to such prohibited

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In Sec. 3094, and a person need not have sustained a loss by reason of such contract to recover the moneys so paid.—Saunders v. Phelps Co., 53 S. C., 173; 31 S. E., 54.

Amendment of complaint making real party in interest a party, with the party by whom contract was made, allowed after the lapse of three months; new defendant had no right to plead the limitation.—Cousar v. Heath, Witherspoon & Co., 80 S. C., 466; 61 S. E., 973. Recovery of money paid to cover losses which might be sustained.—*Ib.*; 80 S. C., 466. Limitation of three months counter-claim.—Randolph v. Walker, 78 S. C., 161; 59 S. E., 856.

Sec. 3097. Any person or persons who by virtue of the provisions herein contained shall or may be liable to be sued for the said moneys so paid to him or them shall be obliged and compelled to answer upon oath such order or orders as shall be made against him or them for discovering the sum and sums of money so paid to him or them as aforesaid.

Certain persons liable to answer upon oath.

Civ. '02, § 2313.

Sec. 3098. All notes, bills, bonds, judgments, mortgages, or other securities or conveyances whatever, given, granted or entered into or executed by any person or persons whatever where the whole or any part of the consideration of such conveyances or securities shall be for any money lost by reason of any contract entered into in violation of the provisions of this Article shall be utterly void, frustrate and of non-effect, to all intents and purposes whatsoever.

When notes, bills, bonds and other securities shall be void.

Civ. '02, § 2314.

A. D. 1912.

CHAPTER LIX.

LICENSES FOR PLAYS AND SHOWS.

Sec.

309. Tax on shows in unincorporated towns; amount, to whom payable.

3100. Execution for, when and by whom issued; how enforced; disposition of money.

3101. When municipal authorities to collect.

Sec.

3102. Theatrical entertainments in Charleston; how licensed.

3103. Circus and shows connected must have license from Clerk; amount; how applied.

3104. Municipal authorities may impose and collect fines or licenses.

Tax on plays and shows, in towns, &c., not incorporated, to be paid to Clerks.

Civ. '02, § 2315.

Section 3099. All persons representing publicly, for gain or reward, any play, comedy, tragedy, interlude, or farce, or other entertainment of the stage, or any part therein, all fortune-tellers, and those who exhibit wax figures, or shows of any kind whatsoever, shall pay a tax of three dollars per day, when they make those exhibitions at the towns or villages that are not incorporated; and the said sum of three dollars shall be paid into the hands of the Clerks of the Circuit Courts respectively, who shall be bound to pay over the same into the County Treasury.

Clerks and Magistrates to issue executions for.

Civ. '02, § 2316.

Sec. 3100. If any person who is required to pay the aforesaid tax shall neglect to do so before such representation or exhibition, it shall be the duty of the Clerk of the Court, or any Magistrate, for the County where the same may be done, to issue an execution for double the amount of tax so imposed, which execution may be directed to any Sheriff or Constable of this State, and against the body and goods of the person so being liable, and which may be levied in any County in the State; and every Magistrate who shall so issue execution shall cause the amount of the same to be paid to the Clerk of the Court for his County; and the Clerk of Court shall pay into the County Treasury all such taxes as may come into his hand respectively: *Provided*, That nothing herein contained shall be construed to extend to any incorporated town, village, or city.

Sec. 3101. The Intendant and Wardens of all incorporated towns and villages (the City of Charleston excepted) shall have power to collect the taxes from all persons repre-

ating, publicly, within their respective corporate limits, for gain or reward, any plays, shows of what nature or kind ever, which, by the last Section, are made payable to the clerks of Courts, the same to be used for the purposes of the said corporations, respectively.

A. D. 1912,
Officers of
incorporated
towns to col-
lect.
Civ. '02, §
2317.

Sec. 3102. The City Council of Charleston are authorized to permit and license any person or persons to exhibit theatrical entertainments within said city, and to impose and collect, for each and every such license, such sum as they may, from time to time, deem reasonable: *Provided*, the same does not exceed five hundred dollars.

Theatrical
entertain-
ments in
Charleston;
how licensed.
Civ. '02, §
2318.

Sec. 3103. Any circus or other such traveling show exhibiting under canvas or outdoors for gain shall, before exhibiting in any County in this State, obtain a license from the Clerk of the Court of such County, and shall pay to the said Clerk for such license one hundred dollars for each and every day said circus or other show shall be exhibited; and said Clerk shall forthwith pay over to the County Treasurer of said County all the moneys by him received in account of said license, to be applied to the use of said County.

Circus and
traveling
shows to take
out license;
license fee;
how applied.
Civ. '02, §
2319.

Sec. 3104. Nothing herein contained shall be construed to prevent the municipal authorities of any incorporated city or town in this State from levying and collecting such taxes or licenses as may be imposed by such municipal authorities.

Municipal
authorities
may require
license.
Civ. '02, §
2320.

A. D. 1912.

CHAPTER LX.

PROTECTION OF FISH AND SHEEP.

Sec.

3105. Obstructions in streams;
close time, &c.3106. Duty of person appointed to
enforce this Chapter, &c.3107. Manufacturing companies
and others to construct
fish ways over artificial
dams; penalty.

Sec.

3108. Commissioners to design
fish sluices on river
width of.

3109. To be designated yearly.

3110. Sluices through certain lands
not to be designated.3111. Persons may kill dogs
injuring sheep.3112. Owners of dogs to pay
sheep killed; costs all &c.Obstruction
in streams;
close time, &c.Civ. '02, §
2321.

Section 3105. At no time during the year shall there be any permanent obstructions of any kind or nature whatever in any of the inland creeks, streams or waters of the State to the free migration of fish; nor shall any seine, net, or any plan or device for the stoppage or collecting of fish, which obstructs any portion of any creek, stream or inland water of the State be set or used in any manner whatever in any such creek, stream or inland water within three miles of the ocean, nor within one mile of the mouth of Waccamaw Great Pee Dee and Bull Creek River, and not below a line from where Mosquito Creek empties into Winyah Bay across said bay in an easterly direction to the opposite shore of said bay; and there shall be a close time in all the creeks, streams and inland waters of the State, from the setting of the sun each Thursday until the rising of the sun on each Monday, during which time all seines, nets or any other plan or device for the stoppage or collecting of fish which obstructs any portion of any creek, stream or inland waters, other than a dam for manufacturing purposes, shall be removed from said creeks, streams or inland waters. Nothing herein contained shall apply to fishing with dip nets used by hand.

Provisions
for enforce-
ment of this
Chapter.Civ. '02, §
2322.

Sec. 3106. It shall be the duty of the person appointed by the County Boards of Commissioners to enforce the provisions of this Chapter, and his assistants, and they shall have the power and authority to arrest any and all persons caught in the act of violating any of the pro-

A. D. 1912.

visions of the laws relating to fish in this State, and to take them before the nearest Magistrate, to be dealt with according to law, and said patrol force shall at the time of making said arrest seize and keep all boats, seines, nets and tackle which were being used by the parties so violating the law, and said patrol shall also be required to seize any boats, seines, nets and tackle which they may find in the streams, which obstruct the free navigation of fish in said streams: *Provided, however,* That the owner or owners or parties having charge of said boats, seines, nets and tackle which may be so seized, shall have the right to obtain the possession of the same by giving bond to a Magistrate in the sum of two hundred dollars for the return of said property in case it is found that the laws of this State have been violated. If the party or parties so arrested are convicted, then the boats, seines, nets and tackle so used by them shall be forfeited to the State, and advertised and sold as personal property under execution of said chief patrol, one-half of the net proceeds to be equally divided among the patrol force, after the cost of sale has been deducted, and the other half to be paid into the State Treasury; this forfeiture to be an additional penalty to the fines and punishment otherwise provided by law against such violations of the fish laws of this State. And if no owner or owners or party claiming the said boats, seines, nets and tackle which shall have been seized as aforesaid, shall come forward and claim the same and give the bond hereinbefore provided for within ten days after such seizure, then the same shall be forfeited to the State and sold as hereinbefore provided, and the net proceeds of such sale shall be divided as above provided for.

Powers.

Seizure and condemnation of nets, &c.

How recovered by owner.

Forfeiture.

Division of proceeds of sale.

In case of no claimant.

c. 3107. All manufacturing companies or persons who erect, or may erect, artificial dams across the inland rivers, streams or waters of this State, which prevent the migratory fish from ascending the same, shall construct over fishways over the same; and should such manufacturing companies or persons refuse or fail so to do, they shall be liable to a fine of five thousand dollars, recoverable in the County in which such dam has been or may be erected, in a Court of competent jurisdiction.

Fishways to be constructed.

Civ. '02, § 2347.

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Fish sluices
to be desig-
nated.Civ. '02, §
2348.

Sec. 3108. It shall be the duty of the County Board of Commissioners to designate the fish sluices on the several rivers, so as to leave one or more passages for fish up the said river, which sluices shall be sixty feet wide, or, where there are two or more sluices, they shall be, together, sixty feet wide; and when they shall be so designated, it shall be lawful for any person to open such sluices.

To be desig-
nated yearly.Civ. '02, §
2349.

Sec. 3109. The said Commissioners shall designate and lay out the fish sluices but once a year, and shall execute this duty on or before the first day of October, whenever they shall determine to change them in any year.

Not to be
designated
through any
way erected
by public au-
thority.Civ. '02, §
2350.

Sec. 3110. Nothing herein contained shall be construed to give authority to the said Commissioners to designate any fish sluice through any dam erected by public authority, for the improvement of the navigation of any of the said rivers, or to designate any fish sluice through any dam erected by individuals for the purpose of propelling any machinery, where the owner of such dam shall leave open a part of the river sixty feet wide, or, where the dam extends entirely across the river, shall construct therein a sufficient fish sluice sixty feet wide, and shall keep the same open for and during the months of February, March and April, in each year.

Persons may
kill dogs
worrying
sheep.Civ. '02, §
2351.

Sec. 3111. It shall be lawful for any person who may find any dog in act of worrying or destroying any sheep in this State to kill said dog, and he shall not be held to answer to any action, civil or criminal.

Owners of
dogs to pay
for sheep
killed; costs
allowed.Civ. '02, §
2352.

Sec. 3112. The owner of any dog, or person having in his care or keeping any dog, shall be liable to pay to the party injured double the value of the sheep that may be killed or injured by such dog, to be recovered by action at the suit of the party injured, in any Court having competent jurisdiction. In all such actions the recovery of ten dollars shall carry costs.

PART II.

OF THE ACQUISITION, THE ENJOYMENT AND
THE TRANSMISSION OF PROPERTY, REAL
AND PERSONAL; THE DOMESTIC RELA-
TIONS AND OTHER MATTERS CONNECTED
WITH PRIVATE RIGHTS.

TITLE I.

OF REAL PROPERTY.

- CHAPTER LXI. *Tenure of Lands and Confirmation of
Certain Titles; Titles to Catawba
Indian Lands.*
- CHAPTER LXII. *Legal Formalities, Construction and
Operation of Conveyances and Mort-
gages of Land, and Other Instru-
ments Affecting Property.*
- CHAPTER LXIII. *Dower and the Allotment Thereof.*
- CHAPTER LXIV. *Estates for Life and for Years; Land-
lord and Tenant; Joint Tenants and
Tenants in Common; Betterments;
Miscellaneous Provisions Concerning
Real Estate.*
-

CHAPTER LXI.

**Tenure of Lands and Confirmation of Certain Titles; Titles
to Catawba Indian Lands.**

- ARTICLE 1.** Tenure of Lands and Confirmation of Certain
Titles.
- ARTICLE 2.** Titles to Catawba Indian Lands.

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ARTICLE I.

TENURE OF LANDS AND CONFIRMATION OF CERTAIN TITLES

SEC.

3113. Tenure of land is free and common socage.

3114. Certain ancient grants, &c., made valid.

3115. Errors, omissions and other defects not to invalidate same.

3116. Ratification and confirmation; saving the claims of third persons.

3117. Estate of John Lord Carteret.

SEC.

3118. Grants, &c., before August 20, 1731, not to be impeached for certain causes.

3119. Titles derived through aliens confirmed; proviso.

3120. Rights of aliens and foreign corporations.

3121. Possession for five years before July 4, 1776, deemed a good title.

To be free
and common
socage.Civ. '02, §
2353.Former
grants, &c.,
made valid.
all persons
claiming un-
der the same
may hold
against the
State.Civ. '02, §
2354.

Section 3113. The only tenure of lands in South Carolina is that of free and common socage.

Sec. 3114. All and every person or persons who are now possessed of or do hold any messuages, lands, tenements, or hereditaments whatsoever, in the State of South Carolina, by and under any original patents, grants, deeds, indentures or poll, either made by the former Lords Proprietors or by their Palatine, or his deputy, and any three or more of the Lords Proprietors, or their deputies, or by any of their Governors, and any three or more of the said Lords Proprietors, or the said Lords Proprietors' deputies, or by any other person or persons whatsoever, commissioned by their Palatine and any three or more of the said Lords Proprietors, or by any five of the said Lords Proprietors, their deputies or commissioners, as of fee simple or fee simple conditional, or for life or for terms of years, and all other person or persons whatsoever who are now possessed of or do hold any such estate or estates, by virtue of any mesne conveyances, derived from and under all or any such original patents, grants, deeds, indented or poll, shall and may from henceforth quietly and peaceably have, hold, use, occupy, possess, and enjoy, all and every such messuages, plantations, lands, tenements, and hereditaments whatsoever, to them, their heirs, executors, administrators, and assigns, respectively, according to the several tenures in such original patents, grants, deeds indented or deeds poll, and mesne conveyances, or last wills, derived from and under them respectively mentioned and expressed, and that

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against the said State forever, and against all and every the said Lords Proprietors and their heirs, and all and every person and persons whatsoever, save and except as hereinafter excepted.

Sec. 3115. The said patents, grants, deeds, indented or poll, shall be held valid, notwithstanding—

First. Any misnomer or omission of the names of any of the said Lords Proprietors, or their deputies, any want of significant and necessary words in law for conveying of such lands, any omission, commission, or mistake whatsoever in the said grants, done, omitted, or committed by all or any of the said Lords Proprietors, their deputies or trustees commissioned by the said Lords Proprietors, for selling of lands in this State.

Errors—(1) in names or necessary words of law; (2) in omitting seal; (3) in description; (4) in any want of livery and seizin, &c.; or (5) in form or substance—not to invalidate grants, &c.

Civ. '02, § 2855.

Second. Any proper seal or seals not being used or affixed by the said Proprietors, their Governors, deputies, commissioners, or trustees, to all or any such patents, grants, indentures, deeds, or commissions.

Third. The lands granted or conveyed, or intended to be granted and conveyed, by such patents, grants, deeds, indented or poll, have not been sufficiently described or ascertained in such patents, grants, deeds, indented or poll, so that, nevertheless, any such lands, or some part thereof, have been surveyed or meted out, or ascertained by survey to such patentees, grantees, or purchasers, or to their heirs or assigns, or to the heirs or assigns of the persons named as patentees or grantees, or assigns, in such patents, or grants, or deeds of assignment, or to their or any of their attorneys or agents in their behalf, by a survey of a sworn surveyor or surveyors, as part of such patent lands, or certified or returned into the office of the late Surveyor General, (now Secretatry of State,) by a sworn surveyor or surveyors thereto appointed; or so that the same lands, or some part thereof, have been described or ascertained by subsequent grants thereof, to such original patentees, grantees, or to persons named as such, their heirs or assigns, or to under-purchasers by mesne conveyances from such original patentees, grantees, or assignees, or persons named as such, their heirs or assigns, or to persons claiming under them as such, or to their attorneys or agents in their or any

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of their behalf, before the twentieth day of August, A. D., seventeen hundred and thirty-one (1731).

1781, III.,
no.

Fourth. Any want of livery and seizin, enrolment, attornment, or any other defect whatsoever, in the execution of all or any such patents, grants, deeds, indented or poll, so made by the said Lords Proprietors, or any of them, their Governors, deputies, or commissioners, or in the not timely execution, or for the non-execution of the same, by reason of the first or former patentee or patentees dying before such lands were meted out to him or them, in part of such patents, or otherwise howsoever, so that, nevertheless, the heir or heirs of the persons who were named as patentees or grantees, or purchasers in such patents, grants, or deeds of assignment, or their heirs or assigns of such first or former patentee or patentees, or any person or persons whatsoever, claiming as such, under all or any of them, their agents or attorneys, did cause any part of such vacant and unoccupied lands to be meted out or ascertained to them, or any of them, their heirs or assigns, or persons named as such in such deeds of assignment, conveyances, or last wills, or to their attorneys or agents in their behalf, by survey or surveys of a sworn surveyor or surveyors, or certified or returned into the late Surveyor General's office, for and in part of such patent lands before conveyed or intended to be conveyed by such original patents, grants, indentures, or deeds. Or,

Fifth. Any other defect, omission or commission in form or substance, law or fact, in all or any such original patents, grants, indentures, or deeds, or assignments of the same, or in the execution thereof, or any of them, so that such lands, or some part of them, have been meted out or ascertained to such patentees, grantees, or assigns, or to persons named as such in any such patents, grants, or deeds of assignment, or to their attorneys or agents in their behalf, or return into the late Surveyor General's office as aforesaid, at any time before the said twentieth day of August, A. D. 1731.

Ratification
and confirma-
tion, saving
the claims of
third persons.

Civ. '02, §
2356.

Sec. 3116. All and every such patents, grants, indentures, and deeds, and all other patents, grants, indentures, and deeds from the said Proprietors, their Governors, deputies, commissioners, or trustees, where any lands have been so meted, or ascertained, or returned as aforesaid, and the

A. D. 1912.

assignments thereof, are hereby ratified and confirmed, for and notwithstanding all or any such defects in the patents, grants, or deeds aforesaid, or any of them, or the assignments thereof, or other defects whatsoever, in not timely executing, undue or non-execution thereof as aforesaid, saving to every person and persons whatsoever, bodies politic and corporate, their executors, administrators, and assigns, other than to the State of South Carolina, and other than to the said Lords Proprietors, and their heirs, and other than to such person and persons who do or may stand seized or possessed in trust, for the said State, or for the said Lords Proprietors, all such right, title, interest, and demand whatsoever, which they or any of them now have and may claim of, in or to the said lands, tenements, and hereditaments whatsoever, or any part thereof.

Sec. 3117. Nothing herein contained shall extend or be construed to alter or abridge the Right Honorable John Lord Carteret, his heirs, executors, administrators, or assigns, or the said Lords Proprietors, or their heirs of any estate, right, title, or interest whatsoever, which have or has been saved and reserved unto the said John Lord Carteret, or to the late Lords Proprietors, or any of them, in and by the Act entitled "An Act for establishing an agreement with seven of the Lords Proprietors of Carolina, for the surrender of their title and interest in that Province to His Majesty;" nor to revive or enlarge any estate or right or interest whatsoever in the said Lords Proprietors, or any of them, their or any of their heirs, of, in, and to the estates aforesaid, or any part thereof, which they or any of them have granted and conveyed as aforesaid, to any person or persons whatsoever, or which they have surrendered by virtue of the aforesaid Act.

Estate of
John Lord
Carteret.Civ. '02. §
2357.

Sec. 3118. No grant, deed of feoffment, deed of bargain and sale, deeds of gift, or other conveyance of any lands or tenements whatsoever, made prior to the said twentieth day of August, 1731, shall be impeached or set aside in any Courts of law or equity for want of attornment or of livery and seizin or enrolment thereof, or because such conveyance has been made by way of assignment or endorsement on such deeds or grants without other ceremony, nor for any other defect in the form or in the manner of the execu-

Grants, &c.,
before August
20, 1731, not
not to be im-
peached for
certain
causes.Civ. '02. §
2358.

A. D. 1912.

tion of such deeds or grants, or of the endorsements or assignments thereof, either by the first grantor, or in any of the mesne conveyances derived therefrom, so that the right was or would have been in the person conveying, if such defects had not happened in the form of such grants, deeds, or conveyances, or in the manner of the execution of the same as aforesaid.

Titles derived
through aliens
legalized.

Civ. '02, §
2359.

Sec. 3119. Any citizen or citizens, alien or aliens, who, prior to the nineteenth day of December, A. D. one thousand eight hundred and seven, (1807,) entered into any *bona fide* contract or contracts, or received any grant or grants, or other deed or deeds of conveyance for, or relating to, any real property in this State, or who derived their titles from or through aliens, either mediately or immediately, may and shall hold and enjoy the same, in fee simple, or for any less estate, according to the nature of his, her, or their contract or contracts, grant or grants, or other deed or deeds of conveyance; any law, usage or custom to the contrary thereof in any wise notwithstanding: *Provided*, That nothing contained herein shall be so construed as to interfere with, or at all invalidate, any grants of real property which may, before the said nineteenth day of December, 1807, have been made by the Legislature of this State unto any person or persons, or unto any body or bodies corporate, or to affect in any measure, descents cast before the date aforesaid.

Aliens and
foreign corpo-
rations en-
titled to
rights of
property of
natural born
citizens.

Civ. '02, §
2360.

1873, XV.,
488.

Sec. 3120. Real and personal property of every description may be taken, acquired, held, and disposed of by an alien, subject to the provisions of Section 1795, in the same manner, in all respects, as by a natural born citizen; and a title to real and personal property of every description may be derived through, from, or in succession to an alien. in the same manner, in all respects, as through, from, or in succession to a natural born citizen. Foreign corporations shall have and exercise all rights granted to aliens in this Section.

Grants ob-
tained five
years before
July 4, 1776,
absolutely
confirmed.

Civ. '02, §
2361.

Construed.—Tucker v. Atlantic Coast Lumber Co., 78 S. C., 142; 59 S. E. 859.

Sec. 3121. An actual, peaceable, and quiet possession of lands five years previous to the fourth day of July, one thousand seven hundred and seventy-six, shall be deemed

A. D. 1912,

a good and sufficient title; and any grant obtained since that time, or which may be obtained, for the said land, is hereby declared null and void.

ARTICLE II.

TITLES TO CATAWBA INDIAN LANDS.

Sec.

3122. Catawba Indians may lease lands for life or years.

3123. Formal requisites of lease.

3124. Certain rights vested in lessees of Catawba Indians.

Sec.

3125. Grants to lessees of.

3126. Lessee, how to proceed if lease be lost; proviso.

Section 3122. It shall be and may be lawful for the Catawba Indians to grant and make to any person any lease or leases, for life or lives, or term of years, of any of the lands vested in them by the laws of this State: *Provided*, That no lease shall exceed the term of ninety-nine years, or three lives in being.

Catawba Indians may lease their lands for life; proviso.

Civ. '02, § 2362.

Sec. 3123. No lease of the lands of the Catawba Indians, whether for life or lives, or terms of years, shall be held or deemed as valid and good in law, unless the same be witnessed by the Commissioner for said tribe at the time of making thereof, and be signed and sealed by at least four of the head men or chiefs of the said Catawba Indians.

Formal requisites of lease.

Civ. '02, § 2363.

Sec. 3124. All the reversionary right, title and interest of this State, in and to the Catawba Indian lands, situated in the Counties of York and Lancaster, within a boundary of fifteen miles square, and which are represented in the plat of survey made by Samuel Wiley, and dated the twenty-second day of February, one thousand seven hundred and sixty-four, and now on file in the office of the Secretary of State, are hereby vested in the persons who now or hereafter may hold the said lands as lessees of the said Catawba Indians, their heirs and assigns, according to the location of their respective leases.

Certain rights vested in lessees of Catawba Indians.

Civ. '02, § 2364.

Sec. 3125. Each lessee of the Catawba Indian lands who shall deposit with the Secretary of State his lease, and also the receipt or receipts of the former tax collector of the County wherein such lands may be situated for such taxes

Grants to lessees of leased Catawba Indian lands.

Civ. '02, § 2365.

A. D. 1912.

as may have been paid thereon, as heretofore required by law, shall be entitled to locate and receive a grant from the State (in the manner provided by law for granting vacant lands) for the land held by him under lease, upon payment of the usual fees, and thenceforth hold the land so granted in the same right as any other lands granted by this State are held.

Lessee, how
to proceed if
lease be lost;
 proviso.

Civ. '02, §
2866.

Sec. 3126. If any lessee of the Catawba Indian lands, being in possession, shall not have it in his power to deposit the lease under which he holds, as required by the preceding Section, by reason of its loss or otherwise, such person shall file in the office of the Secretary of State a notice of his intention to apply for the issuing of a grant, and shall publish the same in one or more of the newspapers of the County in which such land is situated, for at least three months before the time of such intended application, which notice shall set forth the cause of the inability of such person to produce such lease, and shall be verified by the oath of the applicant; and such grant shall thereupon issue, if the person applying be otherwise entitled thereto: *Provided*, That if any person shall, within five years from the issuing of such grant, produce a lease of the premises so granted, such grant shall thereupon become null and void.

CHAPTER LXII.

Legal Formalities, Construction and Operation of Conveyances and Mortgages of Land and Other Instruments Affecting Property.

ARTICLE 1. Form and Execution of Conveyance of Land.

ARTICLE 2. Certain Conveyances, Etc., Void.

ARTICLE 3. Mortgages of Land and Satisfaction Thereof.

ARTICLE I.

FORM AND EXECUTION OF CONVEYANCE OF LAND.

SEC. 3127. Form of conveyance; how exacted.

Section 3127. The following form or purport of a release shall, to all intents and purposes, be valid and effectual to carry from one person to another or others the fee simple of any land or real estate, if the same shall be executed in the presence of and be subscribed by two or more credible witnesses:

Form of conveyance must have two or more witnesses.

Civ. '02, § 2367.

“THE STATE OF SOUTH CAROLINA:

“Know all men by these presents that I, A B, of..... in the State aforesaid, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell, and release, unto the said C D, all that (here describe the premises), together with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned, unto the said C D, his heirs and assigns, forever. And I do hereby bind myself, my heirs, executors, and administrators, to warrant and forever defend all and singular the said premises unto the said C D, his heirs and assigns, against myself and my heirs, and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

A. D. 1912.

"Witness my hand and seal, this..... day of....., in the year of our Lord....., and in the..... year of the independence of the United States of America.

"..... [L. s.]"

Provided, This Section shall be so construed as not to oblige any person to insert the clause of warranty, or to restrain him from inserting any other clause or clauses, in conveyances hereafter to be made, as may be deemed proper and advisable by the purchaser and seller, or to invalidate the forms heretofore in use within this State.

What consid-
ered sealed
instruments.

Whenever it shall appear from the attestation clause or from the other parts of any instrument in writing, that it was the intention of the party or parties thereto that said instrument should be a sealed instrument, then said instrument shall be construed to be, and shall have the effect of, a sealed instrument, although no seal be actually attached thereto.

Cook v. Cooper, 59 S. C., 560; 38 S. E., 218; Trustees v. Bryson, 34 S. C., 401; 13 S. E., 619; Sullivan v. Latimer, 38 S. C., 417; 17 S. E., 227; Heyward v. Farmers' Mining Co., 42 S. C., 138; 19 S. E., 964; 28 L. R. A., 42. See also Mitchell v. Parham, Harp., 1, decided in 1823. Seal is necessary.—Cline v. Black, 4 McC., 431; Jones v. Crawford, 1 McM., 373. But whatever is intended as a seal sufficient.—St. Philip's Church v. Zion Church, 23 S. C., 297. Grantor's estate need not be stated.—Kottman v. Ayer, 1 Strob., 522. Grantee's name must be inserted.—Hardin v. Hardin, 32 S. C., 599; 11 S. E., 102. Deed to "joint heirs" of A. & B. Holeman v. Fort, 3 Strob. Eq., 66. Property must be sufficiently described to show intention.—Lorick & Lowrance v. McCreery, 20 S. C., 424; Navassa Co. v. Richardson, 26 S. C., 401; 2 S. E., 307. Recital is no substantial part of deed.—Harrison v. Maxwell, 2 N. & McC., 347. As to *habendum*.—Ingram v. Porter, 4 McC., 198; Stockton v. Martin, 2 Bay, 471; Porter v. Ingram, Harp., 492. Limitations in reminder to persons named in *habendum* sustained, though the persons are not named in the premises or granting clause.—Millage v. Lamar, 4 DeS., 617. A deed to "A and his associates" is sufficiently certain.—Duncan v. Beard, 2 N. & McC., 400. Signature must be in name of principal when executed by agent.—Pryor v. Coulter, 1 Bail., 517; Webster v. Brown, 2 S. C., 428. Execution by only some of grantors recited.—Arthur v. Anderson, 9 S. C., 234; Harrelson v. Sarvis, 39 S. C., 14; 17 S. E., 368. As to description of land.—Sally v. Gunter, 13 Rich., 72. As to warranty.—Lorick v. Hawkins, 1 Rich., 417; Morris v. Owens, 3 Strob., 199; McCracken v. Ansley, 4 Strob., 1; Jeter v. Glenn, 9 Rich., 374; Evans v. McLucas, 12 S. C., 56; Lessly v. Bowle, 27 S. C., 193; 3 S. E., 199; Davis v. Townsend, 10 S. E., 837; 32 S. C., 112; Hardin v. Clark, 32 S. C., 480; 11 S. E., 480; *ex parte* Hardin, 34 S. C., 377; 18 S. E., 615. Two witnesses necessary.—Allston v. Thompson, Chev., 271; Craig v. Pinson, *ib.*, 272; Jones v. Crawford, 1 McM., 373; Young v. Young, 27 S. C., 201; 3 S. E., 202; Little v. White, 29 S. C., 170; 7 S. E., 72; Navassa Co. v. Richardson, 26 S. C., 401; 2 S. E., 307. But ten years' adverse possession under deed with one witness may cure the defect.—Lyles v. Kirkpatrick, 9 S. C., 265. As to proof by witnesses.—Barry v. Wilbourne, 2 Bail., 91; Brazel v. Fair, 26 S. C., 370; 2 S. E., 253; McGowan v. Reid, 27 S. C., 263; 3 S. E., 337; Little v. White, 29 S. C., 170; 7 S. E., 72. Or their handwriting when absent or dead.—Manl-

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gault v. Hampton, 1 Brev., 394; Sims v. DeGraffenreid, 4 McC., 253; McIlwee v. Sutton, 2 Ball, 128; Collins v. Lamasters, 2 Ball., 141; Dawson v. Dawson, Rich. Eq., 241; Smith v. Asbell, 2 Strob., 141; Lyon v. Holmes, 11 S. C., 429. Or their mark.—Martin v. Quattlebaum, 3 McC., 205. As to the delivery.—Ingram v. Porter, 4 McC., 198; Jackson v. Inabinet, 2 Hill Ch., 41; Dawson v. Dawson, Rice Eq., 243; Younge v. Moore, 1 Strob., 48; Harris v. Saunders, 2 Strob. Eq., 370; McDowell v. Chambers, 1 Strob., 347; McKenzie v. Roper, 2 Strob., 306; McCracken v. Ansley, 4 Strob., 1; Wood v. Ingram, 3 Strob. Eq., 105; Folk v. Varn, 9 Rich Eq., 303; Williams v. Sullivan, 10 Rich Eq., 217; Cloud v. Calhoun, *ib.*, 358; Withers v. Jenkins, 6 S. C., 122; Arthur v. Anderson, 9 S. C., 234; Fraser v. Davie, 11 S. C., 56; Shaw v. Cunningham, 16 S. C., 632; McDaniel v. Anderson, 19 S. C., 216; Carrigan v. Byrd, 23 S. C., 91; Coln v. Coln, 24 S. C., 597; Little v. White, 29 S. C., 170; 7 S. E., 72; Walker v. Frazier, 2 Rich. Eq., 99; McGee v. Walls, 52 S. C., 472; 30 S. E., 602; Guess v. R. R. Co., 40 S. C., 450; 19 S. E., 68.

This form not indispensable. Any form of words sufficient, if intention to convey can be ascertained, and there be a seal, two witnesses and description of the property.—Lorick & Lowrance v. McCreery, 20 S. C., 424; Navassa Co. v. Richardson, 26 S. C., 401; 2 S. E., 307; Sally v. Gunter, 13 Rich., 72. Form of bargain and sale not invalidated by this Section.—Sanders v. Hartzog, 6 S. C., 479; Lorick & Lowrance v. McCreery, 20 S. C., 424. But the words "heirs and assigns" are necessary to convey the whole fee.—Lorick & Lowrance v. McCreery, 20 S. C., 242; McMichael v. McMichael, 51 S. C., 555; 29 S. E., 403. Feoffment with livery of seizin.—Dehon v. Redfern, Dud. Eq., 115. Deeds insufficient as bargain and sale, operative as covenants to stand seized.—Pledger v. David's administrators, 4 DeS., 264; Milledge v. Lamar, *ib.*, 617. Deed necessary to convey freehold estate.—Miller v. Graham, 1 Brev., 448. Sufficiency of writing to give equitable interest.—Craig v. Craig, 1 Ball. Eq., 102; Pope v. Montgomery, 24 S. C., 594; Wilson v. Wakins, 48 S. C., 341; 26 S. E., 663. Covenants to stand seized to use when effectual to convey land.—Craig v. Pierson, Cheves, 272; Chancellor v. Windham, 1 Rich., 161; Kinsler v. Clarke, *ib.*, 170; Dinkins v. Samuel, 10 Rich., 66; Ellen v. Ellen, 16 S. C., 142; Watson v. Watson, 24 S. C., 228. Endorsement on back of deeds insufficient as conveyance.—Turner v. Moore, 1 Brev., 236; Clark v. O'Margey, 2 Brev., 134. Blank paper signed, sealed and delivered and afterwards filled up is no deed.—Parminter v. McDaniel, 1 Hill., 267. Ratification of defective deed.—Wallace v. McCollough, 1 Rich. Eq., 426; Broughton v. Telfer, 3 Rich Eq., 431.

Does the statutory deed have the same effect as a deed of feoffment with livery of seizin? See Young v. McNeill, 78 S. C., 143; 59 S. E., 986.

Quit claim deed proper mode of conveying fee.—Martin v. Ragsdale, 71 S. C., 67; 50 S. E., 671.

Railroad as boundary.—Foster v. Foster, 81 S. C., 307; 62 S. E., 320.

Superadded words amounting to a mere repletion of the preceding words of limitation are inoperative to vary the construction.—Poston v. Midland Timber Co., 76 S. C., 36; 56 S. E., 546; Danna v. Prescott, 5 Rich. Eq., 356; 2 Jarman Wills, 271.

Life estate with contingent remainder over.—Mitchell v. Cleveland, 76 S. C., 432; 57 S. E., 83; Mitchell v. Allen, 81 S. C., 340.

Conveyance for railroad purposes only; conditions stated.—Gaffney v. Wood, 74 S. C., 323; 54 S. E., 573.

When consideration may be proved by parol.—Whitman v. Corley, 72 S. C., 410; 51 S. E., 547.

Duty of Court to construe.—Foster v. Foster, 81 S. C., 307; 62 S. E., 320.

Vested remainder under limitation in will.—Roberts v. Herron, 78 S. C., 115; 58 S. E., 968.

Conflicting clauses; construction of.—Crawford v. A. C. Lumber Co., 79 S. C., 166; 60 S. E., 445.

Grant of growing timber; construction.—Wilson Lumber Co. v. D. W. Alderman & Co., 80 S. C., 106.

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Right of vendee buying up outstanding title as against vendor.—*Brown v. Thompson*, 81 S. C., 380; 62 S. E., 440.

Delivery; record presumptive evidence.—*Sparkman v. Jones*, 81 S. C., 453. Testimony to rebut.—*Shute v. Shute*, 82 S. C., 264; 64 S. E., 145. Delivery, question for jury.—*Mitchell v. Allen*, 81 S. C., 340; 61 S. E., 1087.

Limitations inserted in deed made under judicial sale, at direction of purchaser.—*Corbett v. Fogle*, 72 S. C., 312; 51 S. E., 884.

Words of limitation in covenant of warranty only does not effect estate.—*Wilson v. Garland*, 77 S. C., 171; 57 S. E., 728.

Deed to A, "her, and her children and her assigns forever" held to convey a fee conditional.—*Dillard v. Yarboro*, 77 S. C., 227; 57 S. E., 841. Deed to "E. J. forever, and at her death to her children, J. W. C., M. M. E. and E. T., etc.," held to carry life estate to E. J. *Windham v. Howell*, 78 S. C., 187; 59 S. E., 852.

"Heirs" word of limitation in will.—*Fishburne v. Sigwald*, 79 S. C., 551; 60 S. E., 1105.

Reservation of life estate for grantor.—*Merck v. Merck*, 83 S. C., 329; 65 S. E., 347.

"Issue" word of limitation.—*Williams v. Gause*, 83 S. C., 265; 65 S. E., 241.

Life estate by implication in trustee.—*Weathersbee v. Weathersbee*, 83 S. C., 4; 62 S. E., 838.

Special warranty only.—*Folk v. Graham*, 82 S. C., 66; 62 S. E., 1106.

ARTICLE II.

CERTAIN CONVEYANCES, &C., VOID.

SEC.

3128. Certain conveyances to bastard children or their mother void.

3129. Conveyances, &c., to defraud creditors void as to them.

3130. Conveyances to defraud purchasers void.

SEC.

3131. Parties to fraudulent conveyances; how punished.

3132. Conveyances upon good consideration, &c., valid.

3133. Conveyance with clause of revocation, when void against subsequent purchaser.

Certain conveyances to bastard children or their mother void.

Civ. '02, § 2368.

Section 3128. If any person who is an inhabitant of this State, or who has an estate herein, shall have already begotten, or shall hereafter beget, any bastard child, or shall live in adultery with a woman, the said person having a wife or lawful children of his own living, and shall give, or settle, or convey, either in trust or by direct conveyance, by deed of gift, legacy, devise, or by any other ways or means whatsoever, for the use and benefit of the said woman with whom he lives in adultery, or of his bastard child or children, any larger or greater proportion of the real clear value of his estate, real or personal, after payment of his debts, than one-fourth part thereof, such deed of gift, conveyance, legacy, or devise, made or hereafter to be made,

shall be null and void, only in favor of wife and legitimate children, for so much of the amount or value thereof as shall or may exceed such fourth part of his real and personal estate.

Must be construed so as to suppress the evil.—*Lowry v. Bradly*, Speer Eq., 1; *Massey v. Wallace*, 32 S. C., 149; 10 S. E., 987. Applied.—*Bouknight v. Brown*, 16 S. C., 155; *Canaday v. George*, 6 Rich. Eq., 103. Donor having neither wife nor lawful issue can so give his property to his bastard child.—*Harten v. Gibson*, 4 DeS., 139. Such gift is not absolutely void, only voidable at election of wife or legitimate children, and right must be exercised in their lifetime.—*Breithaupt v. Bauskett*, 1 Rich. Eq., 465; *Ford v. McElray*, 1 Rich. Eq., 474; *Hull v. Hull*, 2 Strob. Eq., 174. Grandchildren cannot avoid gift to illegitimate children.—*Taylor v. McRa.*, 3 Rich. Eq., 96. Gift to children of bastard daughter, who take as purchasers, and not through her, is not a gift to her use or benefit within this Section.—*Hull v. Hull*, 2 Strob. Eq., 174. Adultery defined.—*Id.* Committee of lunatic wife may, under control of the Court, avoid gift.—*Taylor v. McRa.*, 3 Rich. Eq., 96. Court will not permit when effect would be not to benefit wife.—*Id.* This Section does not give validity to deed to a woman in consideration of future illicit cohabitation.—*Cusack v. White*, 2 Mill, 279. A legally divorced father of legitimate children may give to a single woman with whom he cohabits more than one-fourth of his clear estate.—*Hull v. Hull*, 2 Strob. Eq., 174.

Williams v. Halford, 64 S. C., 396; 42 S. E., 187. See also same case, 67 S. C., 296; 45 S. E., 207. Right of action is personal, and accrues where conveyance or gift took effect; limitations.—*Williams v. Halford*, 73 S. C., 119; 53 S. E., 88.

Sec. 3129. Every feoffment, gift, grant, alienation, bargain, and conveyance of lands, tenements, or hereditaments, goods and chattels, or of any of them, or of any lease, rent, commons, or other profit or charge out of the same, by writing or otherwise; and every bond, suit, judgment, and execution, which may be had or made, to or for any intent or purpose to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, and forfeitures, shall be deemed and taken (only as against that person or persons, his or their heirs, successors, executors, administrators, and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties and forfeitures, by such such guileful, covinous, or fraudulent devices and practices, as is aforesaid, are, shall, or might be in any ways disturbed, hindered, delayed, or defrauded) to be clearly and utterly void, frustate, and of none effect; any pretence, color, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

Conveyances
to defraud
creditors void.

Civ. '02, §
2369.

The words "goods and chattels" are inserted after word "hereditaments" in above Section to conform to the original Statute of Elizabeth, II. Cooper's Statutes at Large, 497. They were omitted by mistake in the Revised Stat-

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utes of 1873, 1882 and 1893. These Statutes are in affirmance of the common law.—Hudnal v. Wilder, 4 McC., 294; Footman v. Pendergrass, 3 Rich. Eq., 88.

As to the application of this Statute to personal property, see the North Carolina case of Garrison v. Bryce, 48 N. C., (3 Jones L.), 85, and our own case of Avery v. Wilson, 47 S. C., 78; 25 S. E., 286.

As to conveyances.—Croft v. Arthur, 3 DeS., 223; Wade v. Calvert, 2 Mill. 27; Kid v. Mitchell, 1 N. & McC., 334; Kirkley v. Blakeney, 2 N. & McC., 544; Jenkins v. Clement, Harp. Eq., 72; Harrison v. McCall, Harp. Eq., 170; Madden v. Day, 1 Bail., 337; Henderson v. Dodd, Bail. Eq., 138; Blake v. Jones, Bail. Eq., 141; Cordery v. Zealy, 2 Bail., 205; Lowry v. Pinson, 2 Bail., 324; Edwards v. Ford, 2 Bail., 461; Hipp v. Sawyer, Rich. Eq. Ca. 410; Thomas v. Jeter, 1 Hill, 380; Brown v. McDonald, 1 Hill Ch., 297; Bank v. Toomer, 2 Hill Ch., 27; King v. Clarke, 2 Hill Ch., 611; Davidson v. Graves, Riley Ch., 219, 232; Bank v. Mitchell, Rice Eq., 389; Jacot v. Corbett, Chev. Eq., 71; Anderson v. Fuller, McM. Eq., 27; Jones v. Crawford, 1 McM., 373; Watson v. Kennedy, 3 Strob. Eq., 1; Gracey v. Davis, 3 Strob. Eq., 55; Arnold v. Mattison, 8 Rich. Eq., 153; Pettus v. Smith, 4 Rich. Eq., 197; Godbold v. Lambert, 8 Rich. Eq., 155; Gadsden v. Carson, 9 Rich. Eq., 252; Bulwinkle v. Grube, 5 Rich., 286; Smith v. Culbertson, 9 Rich., 106; Anderson v. Rhodus, 12 Rich. Eq., 104; Richardson v. Rhodus, 14 Rich., 95; Buchanan v. McNinch, 3 S. C., 498; Means v. Feaster, 4 S. C., 249; Thorpe v. Thorpe, 12 S. C., 166; McGowan v. Hitt, 16 S. C., 610; Suber v. Chandler, 18 S. C., 529; Kohn v. Meyer, 19 S. C., 201; Dawson v. Niver, 19 S. C., 607; McPherson v. McPherson, 21 S. C., 270; Werts v. Spearman, 22 S. C., 216; Walker v. Bollman, 22 S. C., 526; McSween v. McCown, 23 S. C., 353; Woody v. Dean, 24 S. C., 505; Wagner v. Mars, 27 S. C., 97; 2 S. E., 844; Featherstone v. Dagnell, 29 S. C., 45; 6 S. E., 897; Bates v. Cobb, 29 S. C., 395; 7 S. E., 743; Watson v. Young, 30 S. C., 144; 8 S. E., 706; Archer v. Long, 32 S. C., 171; 11 S. E., 86; Shell v. Boyd, 32 S. C., 359; 11 S. E., 205; Amaker v. New, 33 S. C., 28; 11 S. E., 386; Jackson v. Lewis, 34 S. C., 1; 12 S. E., 560; McGee v. Jones, 34 S. C., 147; 13 S. E., 326; Bates v. Cobb, 29 S. C., 395; 7 S. E., 743; McGahan v. Crawford, 47 S. C., 566; 25 S. E., 123; Perkins v. Douglass, 52 S. C., 129; 29 S. E., 400; Bank v. Dowling, 45 S. C., 677; 23 S. E., 982; 52 S. C., 345; 29 S. E., 788; McGee v. Wells, 52 S. C., 472; 30 S. E., 602; Latimer v. Latimer, 53 S. C., 483; 31 S. E., 304; Bomar v. Means, 53 S. C., 232; 31 S. E., 234; Gentry v. Lanneau, 54 S. C., 514; 32 S. E., 523; McElwee v. Kennedy, 56 S. C., 154; 34 S. E., 56; Sloan v. Hunter, 56 S. C., 385; 34 S. E., 658; Steinmeyer v. Steinmeyer, 55 S. C., 9; 33 S. E., 15; Garvin v. Garvin, 55 S. C., 360; 33 S. E., 458; Sullivan v. Ball, 55 S. C., 343; 33 S. E., 486; DeLoach v. Sarratt, 55 S. E., 254; 33 S. E., 2; 35 S. E., 441; Younger v. Massey, 39 S. C., 115; 17 S. E., 711; Michalson v. Myrick, 47 S. C., 297; 25 S. E., 162; Sumner v. Murphy, 2 Hill, 488; Leake v. Anderson, 43 S. C., 448; 21 S. E., 439; Booth v. Mozet, 1 Brev., 216; McMahon v. Dawkins, 22 S. C., 314; Simonton v. Davis, 4 Strob. Eq., 133; Durham Fert. Co. v. Hemphill, 45 S. C., 621; 24 S. E., 85; Aultman & Co. v. Salinas, 44 S. C., 299; 22 S. E., 465; Grube v. Boyles, 1 Brev., 266; Tutt v. Culvert, 2 Mills, 26; Ingram v. Phillips, 5 Strob., 200; Durant v. Durant, 36 S. C., 49; 14 S. E., 929; Harrell v. Ker, 37 S. C., 369; 16 S. E., 42; Ferguson v. Harrison, 4 S. C., 340; 19 S. E., 619; Anderson v. Pilgram, 41 S. C., 423; 19 S. E., 1002; McIntyre v. Ligon, 38 S. C., 457; 17 S. E., 253. Remedy of creditors.—Armour Packing Co. v. London, 53 S. C., 539; 31 S. E., 500.

Such conveyance cannot be avoided by executor or administrator.—Chappell v. Brown, 1 Bail., 528; King v. Clarke, 2 Hill Ch., 611.

As to Judgments.—Waltington v. Howley, 1 DeS., 167; State v. Fife, 2 Bail., 337; Posey v. Underwood, 1 Hill, 262; Hipp v. Sawyer, Rich. Eq. Ca. 410; Bowie v. Free, 3 Rich. Eq., 403; Dickenson v. Way, 3 Rich., 412; Cureton v. Doby, 10 Rich. Eq., 411; McCorkle v. Montgomery, 11 Rich. Eq., 114; Weaver v. Wright, 13 Rich., 9; Pringle v. Sizer, 2 S. C., 59; Smith v. Pate, 3 S. C., 204; Arnold v. House, 12 S. C., 600; Beattie v. Pool, 13 S. C.,

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379; *Weinges v. Cash*, 15 S. C., 58; *Mechanics B. & L. Ass'n. v. Fowler*, 35 S. C., 110; 35 S. E., 433; *Drake v. Steadman*, 46 S. E., 474; 24 S. E., 458.

To avoid a deed under this statute it must be shown either that it is without consideration, or made in bad faith by both parties.—*Lenhardt v. Ponder*, 64 S. C., 354; 42 S. E., 169.

Creditors alone can attack deed on ground of fraud.—*Mitchell v. Cleveland*, 76 S. C., 432; 57 S. E., 33.

Sec. 3130. Every conveyance, grant, charge, lease, estate, incumbrance, and limitation of use or uses of, in, or out of any lands, tenements, or other hereditaments whatsoever, which may be had or made for the intent and of purpose to defraud and deceive such person or persons, bodies politic or corporate, as shall purchase in fee simple, fee tail, for life, lives, or years, the same lands, tenements, and hereditaments, or any part and parcel thereof, or to defraud and deceive such as have or shall purchase any rent, profit, or commodity in or out of the same, or any part thereof, shall be deemed and taken (only as against such person and persons, bodies politic and corporate, his and their heirs, successors, executors, administrators, and assigns, and against all and every other person and persons lawfully having or claiming by, from, or under them, or any of them, which have purchased, or shall hereafter so purchase, for money or other good consideration, the same lands, tenements, or hereditaments, or any part or parcel thereof, or any rent, profit, or commodity, in or out of the same,) to be utterly void, frustrate, and of none effect; and, pretence, color, feigned consideration, or expressing of any use or uses to the contrary notwithstanding.

Conveyances to deceive purchasers void.

Civ. '02, § 2370.

Does not extend to goods and chattels.—*Teasdale v. Atkinson*, 2 Brev., 48; *Footman v. Pendergast*, 3 Rich. Eq., 38. The Stat., 27 Eliz., only affirmation of common law.—*Footman v. Pendergast*, 3 Rich., 33. As to notice of purchaser at second sale.—*Ib.*, *Hudnall v. Wilder*, 4 McC., 294; *Howard v. Williams*, 1 Ball., 575.

Sec. 3131. All and every the parties to such feigned, covinous, and fraudulent gifts, grants, leases, charges, or conveyances, or being privy and knowing of the same, or any of them, who shall wittingly or willingly put in use, a vow, maintain, justify, or defend the same, or any of them, as true, simple and done, had, or made *bona fide*, or upon good consideration, to the disturbance or hindrance of the said purchaser or purchasers, lessees or grantees, or of or to the disturbance or hindrance of their heirs, successors, executors, administrators, or assigns, or such as have or

Parties to fraudulent conveyances, how punished.

Civ. '02, § 2371.

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shall lawfully claim anything by, from, or under them, or any of them, shall incur the penalty and forfeiture of one year's value of the said lands, tenements, and hereditaments so purchased or charged; the one moiety whereof for the use of the State, and the other moiety to the party or parties grieved by such feigned and fraudulent gift, grant, lease, conveyance, incumbrance, or limitation of use, to be recovered by action in any Court of competent jurisdiction; and also being thereof lawfully convicted, shall suffer imprisonment for one-half year.

Conveyances
upon good
consideration,
&c., valid.

Civ. '02, §
2372.

Sec. 3132. Nothing contained in the three preceding Sections of this Chapter shall extend or be construed to impeach, defeat, make void, or frustrate, any conveyance, assignment of lease, assurance, grant, charge, lease, estate, interest, or limitation of use or uses of, in, to, or out of any lands, tenements, or hereditaments heretofore at any time had or made, or hereafter to be had or made, upon or for good consideration and *bona fide* to any person or persons, bodies politic or corporate; anything mentioned to the contrary notwithstanding.

Lands con-
veyed with
condition of
revocation
and after-
wards sold
for good con-
sideration;
first convey-
ance void.

Civ. '02, §
2373.

Sec. 3133. If any person or persons have heretofore made, or hereafter shall make, any conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance of, in, or out of any lands, tenements, or hereditaments, with any clause, provision, article, or condition or revocation, determination, or alteration, at his or their will or pleasure, of such conveyance, assurance, grants, limitations of uses or estates of, in or out of the said lands, tenements, or hereditaments, or of, in, or out of any part or parcel of them, contained or mentioned in any writing, deed, or indenture of such assurance, conveyance, grant, or gift; and after such conveyance, grant, gift, demise, charge, limitation of uses or assurance so made or had, shall or do bargain, sell, demise, grant, convey, or charge, the same lands, tenements, or hereditaments, or any part or parcel thereof, to any person or persons, bodies politic and corporate, for money or other good consideration paid or given, (the said first conveyance, assurance, gift, grant, demise, charge, or limitation, not by him or them revoked, made void, or altered, according to the power and authority reserved or expressed unto him or them in or by the said secret conveyance, assurance, gift,

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or grant,) then the said former conveyance, assurance, gift, demise, and grant, as touching the said lands, tenements, and hereditaments, so after bargained, sold, conveyed, demised, or charged, against the said bargainees, vendees, lessees, grantees, and every of them, their heirs, successors, executors, administrators, and assigns, and against all and every person and persons which have, shall, or may lawfully claim anything by, from, or under them, or any of them, shall be deemed, taken, and adjudged to be void, frustrate, and of none effect: *Provided*, That no lawful mortgage made, or to be made, *bona fide*, and without fraud or covin, upon good consideration, shall be impeached or impaired by force of anything in this Chapter contained.

ARTICLE III.

MORTGAGES OF LAND AND SATISFACTION THEREOF.

SEC.

3134. Mortgagor remains legal owner even after condition broken; mortgagee's only right is to satisfaction by foreclosure and sale; proviso as to release of equity of redemption.

3135. Upon payment or tender of debt, &c., mortgagee must enter satisfaction; at whose request; within what time, &c.

3136. Penalty for not entering satisfaction; where entered by order of Court and by whom.

SEC.

3137. Mortgagor may apply for rule, &c.

3138. Proceedings on rule.

3139. Judge may submit questions of fact to a jury, &c.

3140. Cancellation to be entered on record.

3141. Foreclosure sales, conditions precedent.

3142. Date of consent of mortgagor.

3143. Judgment in actions for foreclosure.

Section 3134. No mortgagee shall be entitled to maintain any possessory action for the real estate mortgaged, even after the time allotted for the payment of the money secured by mortgage is elapsed; but the mortgagor shall be deemed owner of the land, and the mortgagee as owner of the money lent or due, and shall be entitled to recover satisfaction for the same out of the land by foreclosure and sale according to law: *Provided*, That notwithstanding the foregoing provision all releases of the equity of redemption shall be binding and effectual in law.

Mortgagor remains legal owner even after condition broken; mortgagee's only right is to satisfaction by foreclosure and sale; proviso as to releases of equity of redemption.

Civ. '02, § 2874.

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Before Act of 1791 legal title passed to mortgagee upon defeasance and he could maintain action for the land.—*Veree v. Veree*, 2 Brev., 211; *State v. Laval*, 4 McC., 336; *Stoney v. Shultz*, 1 Hill Ch., 465; *Drayton v. Marshall Rice Eq.*, 373; *Mitchell v. Bogan*, 11 Rich., 686; *Laffan v. Kennedy*, 15 Rich., 246; *Reeder v. Dargan*, 15 S. C., 175. Under this Statute a mortgage is not a conveyance.—*Burkett v. Whittemore*, 36 S. C., 428; 15 S. E., 618.

Since, mortgage does not convey any estate, even after time for redemption has passed.—*Thayer v. Cramer*, 1 McC. Ch., 395; *Lowndes v. Chisolm*, 2 McC. Ch., 455; *Simons v. Bryce*, 10 S. C., 354; *Warren v. Raymond*, 12 S. C., 9; *Annely v. DeSaussure*, 12 S. C., 488; *Reeder v. Dargan*, 15 S. C., 175; *Warren v. Raymond*, 17 S. C., 163; *Hendrix v. Seaborn*, 25 S. C., 48; *Johnson v. Johnson*, 27 S. C., 309; 3 S. E., 606; *Seignious v. Pate*, 32 S. C., 134; 10 S. E., 880; *Hardin v. Hardin*, 34 S. C., 77; 12 S. E., 936. Unless as provided in original Act, the mortgagor went out of possession which proviso was stricken out in 1879.—*Durand v. Isaacs*, 4 McC., 54; *Stoney v. Shultz*, 1 Hill Ch., 465; *Mitchell v. Bogan*, 11 Rich., 686; *Laffan v. Kennedy*, 15 Rich., 246; *Williams v. Beard*, 1 S. C., 309; *Warren v. Raymond*, 12 S. C., 22.

Release of the equity of redemption operates under the Section as a conveyance of land.—*Mitchell v. Bogan*, 11 Rich., 704; *Simons v. Bryce*, 10 S. C., 372; *Navassa Guano Co. v. Richardson*, 26 S. C., 201; 2 S. E., 307. *Tant v. Guess*, 37 S. C., 489; 16 S. E., 477.

Deed of conveyance and separate agreement to recovery constitute a mortgage.—*Francis v. Francis*, 78 S. C., 178; 58 S. E., 804.

Mortgagee in possession, right to reconveyance.—*Francis v. Francis*, 78 S. C., 178; 58 S. E., 804.

Effect of attempted sale under invalid exercise of power.—*Griffin v. Griffin*, 82 S. C., 256; 64 S. E., 160.

Amendment of 1873, acted only on remedy.—*Simms v. Steadman*, 62 S. C., 300; 40 S. E., 677.

Satisfaction
to be entered
when mort-
gage debts are
paid.

Civ. '02, §
2375.

Sec. 3135. Any person who shall have received full payment or satisfaction, or to whom a legal tender shall have been made, of his debts, damages, costs, and charges, secured by mortgage of real estate, shall, at the request of the mortgagor, or of his legal representative, or of any other person being a creditor of the said debtor, or a purchaser under him, or having an interest in any estate bound by such mortgage, and on tender of the fees of office for entering such satisfaction, within three months after such request made, enter satisfaction in the proper office, on such mortgage, which shall forever thereafter discharge and satisfy the same.

An endorsement on mortgage that its lien is released is not the satisfaction required.—*Lynch v. Hancock*, 14 S. C., 56. The satisfaction does not require two witnesses.—*Charleston v. Ryan*, 22 S. C., 339. If fraudulent the rights of subsequent purchaser without notice of fraud will be secure.—*Charleston v. Ryan*, 22 S. C., 339. Tender of debt, though past due, discharges lien of the mortgage.—*Salinas v. Ellis*, 26 S. C., 337; 2 S. E., 121.

Any person having received such payment, satisfaction, or tender, as aforesaid, who shall not, within three months, by himself or his attorney, after request and tender of fees of office, repair to the said office, and enter

satisfaction as aforesaid, shall forfeit and pay to the party aggrieved a sum of money not exceeding one-half of the amount of the debt secured by mortgage as aforesaid, to be recovered by action in any Court of competent jurisdiction within the State; and on judgment being rendered for the plaintiff in any such action, it shall be the duty of the presiding Judge to order satisfaction to be entered on the judgment or mortgage aforesaid, by the Clerk or Register, or other proper officer, whose duty it shall be, on receiving such order, to record the same, and to enter satisfaction accordingly.

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Penalty for
not doing so.Civ. '02, §
2376.

Ryan v. Kaphan, 16 S. C., 154.

Where tender must include attorneys fees.—Easton v. Woodbury, 71 S. C., 250; 50 S. E., 790. Satisfaction by guardian.—Werber v. Cain, 71 S. C., 346; 51 S. E., 123.

Tender before maturity is not legal tender.—Pyross v. Fraser, 82 S. C., 498; 64 S. E., 407.

Sec. 3136. Any person who shall be indebted by mortgage shall be, and he is hereby, authorized to apply to the presiding Judge of any Court of General Sessions and Common Pleas, to be held in the County in which such mortgage shall be recorded, for a rule to show cause why satisfaction should not be entered thereon.

Mortgagor
may apply for
rule, &c.Civ. '02, §
2377.

Sec. 3137. It shall be the duty of such judge to grant such rule, returnable on a day to be fixed by him; which rule shall be served on the mortgagee, his legal representative, or assignee, or their attorney; and if the party so served shall not attend to show cause, or, attending, shall show insufficient cause, and the Judge shall be satisfied that the mortgage aforesaid has been fully paid, it shall be his duty to order the proper officer to enter satisfaction on the said mortgage.

Proceedings
where rule is
issued.Civ. '02, §
2378.

Sec. 3138. If, on the return of the said rule, it shall appear to the presiding Judge that matters proper for the decision of a jury are involved in the case, he may, at the request of either party, submit the same to the jury, to be decided immediately, in a summary manner; and if the jury shall decide that the mortgage has been paid, satisfaction shall be ordered accordingly.

When a jury
may decide
whether mort-
gage is paid.Civ. '02, §
2379.

Sec. 3139. No sale under or by virtue of any mortgage or other instrument in writing intended as security for a debt, conferring a power upon the mortgagee or creditor

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Debts secured
by mortgage
of real estate
to be proven,
before order
of sale for
foreclosure or
sale under
power.

Civ. '02, §
2380.

Exceptions
and provisos.

to sell the mortgaged or pledged property while said power remains of force, or has not been revoked by the death of the party or parties executing such mortgage or instrument, shall be valid to pass the title of the land mortgaged, unless the debt for which the security is given shall be first established by the judgment of some Court of competent jurisdiction, or unless the amount of the debt be consented to in writing by the debtor subsequently to the maturity of the debt, such consent in writing to be recorded in the office of the Register of Mesne Conveyance, or Clerk of the Court, where the mortgage or other instrument in writing given to secure such debt is, or ought to be, recorded: *Provided, however,* That nothing herein contained shall render it necessary, nor shall it be necessary, to make the personal representative of a deceased mortgagor a party to any foreclosure proceeding; nor in any foreclosure proceeding (if the mortgagor be dead) shall it be necessary to first establish the debt by the judgment of some Court of competent jurisdiction in order to obtain a decree of foreclosure and sale; nor shall it be necessary to make the mortgagor who may have conveyed the mortgaged premises a party to any action for foreclosure where no judgment for any deficiency is demanded: *Provided, further,* That no sale heretofore made under foreclosure proceedings, to which the personal representatives of deceased mortgagors were not parties, shall be invalid by reason of the absence of such personal representatives.

This Act applies to statutes executed prior to, as well as to those executed since its date, and relates to the remedy only.—Simon v. Sabb, 56 S. C., 38; 33 S. E., 801; Stoddard v. Owings, 42 S. C., 88; 20 S. E., 25.

Shuck v. B. & L. Ass'n., 63 S. C., 134; 41 S. E., 28.

Registers
of Mesne
Conveyance
and Clerks of
Court to en-
ter on mar-
gin of mort-
gages when
canceled of
record.

1910, XXVI,
587.

Sec. 3140. All the Registers of Mesne Conveyance of the various Counties of this State, and all the Clerks of Court, where, by law, they are required to perform the duties of such Registers of Mesne Conveyances, are required to enter the word "canceled," together with the signature of such officer, upon the margin of the indexes of real estate mortgages, chattel mortgages and judgments, respectively, when any such real estate mortgage, or judgment, is duly canceled of record by the mortgagee or his assignee, or the judgment creditor or his assignee; such cancellation and sig-

nature to be entered in the margin opposite the names of the mortgagor and mortgagee, or judgment debtor and judgment creditor, respectively.

Sec. 3141. The consent of the mortgagor to the amount of the debt shall bear date not more than twelve months prior to any sale under any power contained in any such mortgage as referred to in Section 3139; and when any sale of land is made, or to be made, under and according to the provisions of said Section, any balance of the mortgage debt over the purchase price of the land at such sale shall not be extinguished by reason of the mortgagee or his or her assigns becoming the purchaser at such sale, whether the mortgage contain a provision to that effect or not.

Date of consent of mortgagor.

Civ. '02, § 2381.

Sec. 3142. In actions of foreclosure, the Courts shall have the power to render judgment against the parties liable for the payment of the debt secured by the mortgage and to direct at the same time the sale of the mortgaged premises. The said judgment so rendered may be entered and docketed in the Clerk's office in the same manner as other judgments. Upon sale of the mortgaged premises, the officer making the sale under the order of the Court shall credit upon the judgment so rendered for the debt the amount or amounts paid to the plaintiff from the proceeds of the sale.

Court may render judgment and order sale at same time.

Civ. '02, § 2382.

Judgment to be credited.

CHAPTER LXIII.

Dower and Allotment Thereof.

ARTICLE 1. Renunciation of Dower, and When the Right Shall Be Barred or Forfeited.

ARTICLE 2. Mode of Divesting Right of Insane Married Women.

ARTICLE 3. Proceedings for Allotment of Dower.

ARTICLE I.

RENUNCIATION OF DOWER, AND WHEN THE RIGHT SHALL BE BARRED OR FORFEITED.

SEC.

3143. Renunciation of dower, before whom; certificate, effect of.

3144. How wife may renounce.

3145. Form of certificate; where to be recorded.

3146. Acceptance by widow of distributive share in husband's intestate estate bars dower.

3147. Elopement forfeits dower.

SEC.

3148. Wife having jointure, not to have dower.

3149. Not having jointure, to have dower at common law.

3150. Women shall be endowed when jointure is recovered.

3151. May take or refuse jointure after marriage.

3152. Refusing jointure, may demand dower.

Who may
take renun-
ciation of dower.

1909. XXVI,
40.

Section 3143. When any *femme covert* shall relinquish her right of dower in any real estate and acknowledge the same in writing, if she be within this State, in open Court, or before any Judge of the Court of Common Pleas, Justice of the Supreme Court, Judge of Probate, Clerk of the Court of Common Pleas, or Master, Magistrate or Notary Public; or, if she be without this State, before a Commissioner of Deeds of this State, or before a Commissioner duly appointed by *dedimus*, or before any Minister, Ambassador, Consul-General, Consul, Vice-Consul, Deputy Consul, Consular Agent, Commercial Agent of the United States or any other officer appointed by the United States in foreign countries with the power to administer oaths and having an official seal, or a Clerk of a Court of Record, or before a Notary Public who must each append to the certificate the official

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seal used by him, and such acknowledgment shall be recorded, the same shall be effectual in law to convey and pass away the right of such *femme covert*, although she has not executed or acknowledged any deed of conveyance for that purpose.

Any and all certificate of renunciation of dower which may have heretofore been taken before a Notary Public without this State, who has signed the same and affixed thereto his official seal, but whose official character has not been attested by a Clerk of the Court of Record of the County in which he may reside, are hereby validated and their certificate affirmed.

Certain certificates of renunciation of dower validated.

Promise by husband that wife would relinquish subsequent to conveyance void.—*Murray v. Crane*, 1 McC., 489. Must be perfect at time when made.—*Scanlan v. Turner*, 1 Ball., 421. Shall not be construed as renunciation of inheritance.—*Brown v. Spann*, 2 Mill, 12; *Mays v. Feaster*, McC. Ch., 137. Officer cannot take upon conveyance in which he is interested.—*Scanlan v. Turner*, 1 Ball., 421. Where renounced on mortgage by husband, and executors, under a power in the will, raised money by mortgage on same land with wife's renunciation and paid husband's mortgage, she was entitled to dower in priority of executor's mortgage.—*Jeffries v. Allen*, 29 S. C., 501; 7 S. E., 828.

Dower does not attach against purchase money mortgaged.—*Groce v. Ponder*, 63 S. C., 162; 41 S. E., 83. Held not to attach, deed being executed, though not recorded, before marriage.—*Ex parte Wallace*, 73 S. C., 109; 52 S. E., 873. Protection against outstanding lien of dower.—*Wanamaker v. Brown*, 77 S. C., 64; 57 S. E., 165. Election between acceptance of devise and dower.—*Otts v. Otts*, 80 S. C., 16. Certificate of renunciation in statutory form estops the wife from claiming title to land.—*Wilkins v. Baker*, 77 S. C., 244; 57 S. E., 851.

Sec. 3144. The wife of any grantor conveying real estate by deed of release, may whether she be of lawful age or a minor, release, renounce, and bar herself of her dower in all the premises so conveyed, by acknowledging, as prescribed in the preceding Section of this Chapter, upon a private and separate examination, that she did freely and voluntarily, without any compulsion, dread, or fear of any person whomsoever, renounce and release her dower to the grantee, and his heirs and assigns, in the premises mentioned.

How dower renounced and barred.
1909. XXVI.
42.

Any renunciation of dower which may have heretofore been probated by either Minister, Ambassador, Consul-General or other Consul, Consular Agent, Commercial Agent of the United States or Notary Public are hereby validated and their probate confirmed.

Campbell v. Harris Lithia Springs, 74 S. C., 282; 54 S. E., 378.

Prior to the Constitution of 1895 this was held to be the only way by

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which a married woman could renounce her inchoate right of dower.—*McKensie v. Sifford*, 52 S. C., 104; 29 S. E., 388.

Privy examination is necessary to make renunciation of dower effectual.—*Townsend v. Brown*, 16 S. C., 91. Before Act 1890 infant wife could not so renounce dower.—*McMorris v. Webb*, 17 S. C., 558. Wife cannot make valid renunciation of dower to one who is in possession of husband's land without title but with his consent.—*Mobley v. Mobley*, 14 Rich. Eq., 280.

Certificate to
be endorsed
on release.
Form of.

Civ. '02, §
2885.

Sec. 3145. A certificate, under the hand of the woman and the hand and seal of the officer or officers aforesaid, shall be endorsed upon such release, or a separate instrument of writing to the same effect, in the form, or to the purport, hereafter following, and be recorded in the office of Register of Mesne Conveyances in the County where the land lies:

"THE STATE OF SOUTH CAROLINA. County.

"I, F G, (., Judge, Magistrate, or other officer, as the case may be,) do hereby certify unto all whom it may concern, that E B, the wife of the within named A B, did this day appear before me, and, upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release, and forever relinquish, unto the within named C D, his heirs and assigns, all her interest and estate, and also all her right and claim of dower, of, in, or to, all and singular the premises within mentioned and released.

"Given under my hand and seal, this day of, Anno Domini

(Signed)

E. B.

[L. s.] F. G."

The renunciation of dower is co-extensive with the operation of the deed.—*Rickard v. Talbird*, Rice Eq., 158; *Kleckley v. Kleckley*, 2 Hill Eq., 250. Such form wholly inoperative as a renunciation, unless conveyance of land has been executed by husband.—*Mobley v. Mobley*, 14 Rich. Eq., 280; *Jeffries v. Allen*, 29 S. C., 501; 7 S. E., 828. Certificate good between the parties without recording.—*Kottman v. Ayer*, 1 Strob., 552. Such renunciation of dower by mother on deed of son "amounted to nothing more than a renunciation of all claims of donee against this purchaser."—*Bethune v. McDonald*, 34 S. C., 88; 14 S. E., 674. Dower, prior to the Constitution of 1895, could only be renounced by a compliance with this Statute.—*McKensie v. Sifford*, 52 S. C., 104; 29 S. E., 388. Where the wife signed a covenant not to claim dower she must return the consideration received before the cancellation of same.—*Id.* As to estoppel by conduct.—*Jeffries v. Allen*, 34 S. C., 189; 13 S. E., 865; *Davis v. Townsend*, 32 S. E., 112; 10 S. E., 887; *Wilson v. Woodward*, 41 S. C., 363; 19 S. E., 685; *Stoney v. Bank*, 1 Rich. Eq., 275; *Tennent v. Stoney*, *Id.*, 222; *Smith v. Passenger*, 2 Mills, 59. Quit claim deed of dower, signed by wife with husband, no bar to dower.—*Townsend v. Brown*, 16 S. C., 91. Since Constitution of 1868, and Acts in pursuance thereof, wife may estop herself by covenant for value to not claim dower.—*Shelton v. Shelton*.

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20 S. C., 560; *Smith v. Oglesby*, 33 S. C., 194; 11 S. E., 687. Certificate need not be in this exact form; "to same purport" sufficient.—*Vinson v. Nicholas*, 28 S. C., 198; 5 S. E., 599. Inchoate right of dower should be renounced; complete right conveyed by deed.—*Jeffries v. Allen*, 29 S. C., 501; 7 S. E., 828; *Bethune v. McDonald*, 35 S. C., 88; 14 S. E., 674. Officer's seal indispensable.—*Vinson v. Nicholas*, *supra*; *McCreary v. McCreary*, 9 Rich. Eq., 84.

Estoppel by covenant to claim dower.—*Moon v. Bruce*, 63 S. C., 126; 40 S. E., 1030.

Cancellation of release—or renunciation—fraud on part of grantee necessary.—*Campbell v. Harris L. Springs Co.*, 74 S. C., 282; 54 S. E., 378. Acceptance of devise in lieu of dower.—*Scott v. Vaughan*, 83 S. C., 362; 65 S. E., 269.

Sec. 3146. When a husband dies intestate, and his widow accepts her distributive share in his estate, she shall be barred of her dower in the lands of which her husband died seized, and all of such as he had aliened.

Acceptance by widow of distributive share in husband's intestate estate bars dower.

Distributive share is in lieu of dower.—*Douglas v. Clark*, 4 DeS., 143; *Avant v. Robinson*, 2 McM., 215; *Bulst v. Dawe*, 3 Rich. Eq., 281; *Evans v. Pierson*, 9 Rich., 9; *Glover v. Glover*, 45 S. C., 51; 22 S. E., 732; *Beaty v. Richardson*, 56 S. C., 173; 34 S. E., 73; *Lavender v. Daniel*, 58 S. C., 125; 36 S. C., 550. Election.—*Quarles v. Garrett*, 4 DeS., 145; *Pickett v. Peay*, 3 Brev., 545; *Wilson v. Hayne*, Chev. Eq., 37; *Phinney v. Johnson*, 13 S. C., 25; *Avant v. Robinson*, 2 McM., 215; *Labitut v. Schmidt*, Speer Eq., 421; *Caston v. Caston*, 2 Rich. Eq., 1; *Shaffer v. Shaffer*, 16 S. C., 625; *Witherspoon v. Watts*, 18 S. C., 396; *Hair v. Goldsmith*, 22 S. C., 566; *Lavender v. Daniel*, 58 S. C., 125; 36 S. E., 550; *Calahan v. Robinson*, 30 S. C., 249; 9 S. E., 120; *Sumerel v. Sumerel*, 34 S. C., 85; 12 S. E., 932. When both legacy and dower can be taken.—*Gordon v. Stevens*, 2 Hill Ch., 46. Where not.—*Cunningham v. Shannon*, 4 Rich. Eq., 135. But if legacy accepted fails, dower allowed.—*Gist v. Cattell*, 2 DeS., 53. Legacy does not bar dower in lands purchased after will.—*Hall v. Hall*, 2 McC. Ch., 269. Nor in lands alienated during coverture.—*Braxton v. Freeman*, 6 Rich., 35. Nor in intestate lands.—*Seabrook v. Seabrook*, 10 Rich. Eq., 495.

Civ. '02, § 2386.

The widow may claim both dower and homestead against creditors.—*Geiger v. Geiger*, 57 S. C., 521; 35 S. E., 1032. Cannot have both dower and distributive share.—*Kennedy v. Kennedy*, 74 S. C., 541; 54 S. E., 773; *Williams v. Newton*, 82 S. C., 227; 64 S. E., 219. Participation in partition proceeding estops right to claim dower.—*Weathersbee v. Weathersbee*, 82 S. C., 4; 62 S. E., 838.

Sec. 3147. If a wife willingly leave her husband, and go away, and continue with her advouter, she shall be barred forever of action to demand her dower that she ought to have of her husband's lands, if she be convicted thereupon, except that her husband willingly reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action.

Elopement forfeits dower.

Civ. '02, § 2387.

Dower is not barred where the husband deserted the wife and she made unsuccessful efforts to win him back before going to live in adultery.—*Beaty v. Richardson*, 56 S. C., 173; 34 S. E., 73; *Bell v. Nealy*, 1 Bailey, 312; *McCreary v. Davis*, 44 S. C., 195; 22 S. E., 178; 28 L. R. A., 655.

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Wife having
jointure not
to have dower.

Civ. '02, §
2398.

Sec. 3148. Every married woman having jointure shall not claim, or have title to have, any dower of the residue of the lands, tenements, or hereditaments, that at any time were her said husband's by whom she hath any such jointure, nor shall demand or claim her dower of and against them that have the lands and inheritances of her said husband.

An acceptance of an estate in lifetime of husband under articles of separation is not a jointure under this Section.—*Shelton v. Shelton*, 20 S. C., 560.

Not having
jointure, to
have dower at
common law.

Civ. '02, §
2389.

Sec. 3149. If she have no such jointure, then she shall be admitted and enabled to pursue, have, and demand her dower, after the due course and order of the common law, any law or provision made to the contrary thereof notwithstanding.

Woman shall
be endowed
whose jointure
is recovered.

Civ. '02, §
2390.

Sec. 3150. If any such woman be lawfully expelled or evicted from her said jointure, or from any part thereof, without any fraud or covin, by lawful entry, action, or by discontinuance of her husband, then every such woman shall be endowed of as much of the residue of her husband's tenements or hereditaments, whereof she was before dowable, as the same lands and tenements so evicted and expelled shall amount or extend unto.

See *Ward v. Wilson*, 1 DeS., 401.

May take or
refuse jointure
after marriage.

Civ. '02, §
2391.

Sec. 3151. If any wife have, or hereafter shall have, any lands, tenements, or hereditaments unto her given and assured after marriage for term of her life, otherwise in jointure, except the same assurance be to her made by Act of the General Assembly, and the said wife, after that fortune, do over-live her said husband in whose time the said jointure was made or assured unto her, the same wife so over-living, shall and may, at her liberty, after the death of her said husband, refuse to have and take the lands and tenements so to her given, appointed, or assured, during the coverture, for term of her life, or otherwise in jointure, except the same assurance be to her made by Act of the General Assembly, as is aforesaid.

Refusing
jointure, may
demand dower.

Civ. '02, §
2392.

Sec. 3152. Upon the refusal of any wife to have and take the lands and tenements, given, appointed, and assured to her by jointure as aforesaid, she may have, ask, demand, and take her dower according to the common law, of and in all such lands, tenements, and hereditaments, as her

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husband was and stood seized of any estate of inheritance at any time during the coverture; anything contained herein to the contrary notwithstanding.

As to ante nuptial settlements and agreements in bar of dower, see *Gelzer v. Gelzer*, Bailey Eq., 387; *Cunningham v. Shannon*, 4 Rich. Eq., 135; *Spira v. Jeter*, 9 Rich. Eq., 434. Post nuptial agreement for separation, etc.—*McKenzie v. Sifford*, 48 S. C., 458; 26 S. E., 706. Widow may become trespasser on lands of her husband, although entitled to dower, after forty days from his death.—*Cave v. Anderson*, 50 S. C., 293; 27 S. E., 693; *McCully v. Smith*, 2 Ball., 103; *Lamar v. Scott*, 2 Rich., 516; *Trenholm v. Wilson*, 13 S. C., 174.

ARTICLE II.

MODE OF DIVESTING RIGHT OF INSANE MARRIED WOMAN.

SEC.	SEC.
3153. Petition to Probate Court by husband; what to contain.	3156. Endorsement equivalent to renunciation.
3154. Court may adjudge right barred upon compliance by husband with certain conditions.	3157. Like proceeding authorized as to land aliened or incumbered prior to Act.
3155. Conditions being complied with, certificate to be endorsed on deed or mortgage; form of.	3158. Proceedings where unsoundness of mind not adjudged prior to petition; certificate in such case.

Section 3153. When a married man desires in good faith to grant, alien, sell, mortgage, or otherwise incumber real estate, and is unable to obtain his wife's renunciation of her right of dower thereto by reason of her being of unsound mind, then, and in such cases, the husband may, by verified petition to the Probate Court, set forth all the facts, particularly describing the real estate sought to be granted, aliened, sold, mortgaged or otherwise incumbered, and praying: 1st. That a guardian *ad litem* be appointed to represent the interest of the said married woman under the proceedings begun by said petition. 2nd. To inquire into the truth of the facts stated in the said petition. 3rd. To ascertain the true value of the land described in the petition.

Mode prescribed to divest dower right of insane married women.

(Rev. '02, § 2393.

Petition to Probate Court.

Guardian *ad litem*.

Protection against outstanding incumbrance of dower.—*Wannamaker v. Brown*, 77 S. C., 64; *Coleman v. Whittle*, 79 S. C., 212; 60 S. E., 523. Under complete contract, vendee must rely upon the covenant against dower, when it vests.—*Coleman v. Whittle*, 79 S. C., 212; 60 S. E., 523.

Sec. 3154. If the Probate Judge, after a proper hearing, shall find the facts stated in the petition are true, and that

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Right to be
barred.Civ. '02, §
2394.

Conditions.

Investment.

Payment of
interest.

Of principal.

Bond of hus-
band.

said married woman is of unsound mind, it shall be competent for the said Probate Court to adjudge her said right of dower to the land described in the said petition forever barred, upon the following conditions being complied with by the husband: Either one-sixth of the true value of the land described in the petition shall be invested in some security, to be approved by the Probate Court and held in trust by a trustee to be appointed by said Court, with such security as the Court may direct, or, in case such security cannot be obtained, then by the Judge of said Probate Court; that the interest arising therefrom shall be paid to the husband during his life or during the life of the wife if she should predecease him, and the whole to go to her absolutely at the death of the husband if she should then be living; if she should predecease her husband, at her death the property so invested to be turned over to the husband absolutely; or the husband may give a bond to said Probate Judge for one (1-6) sixth the true value of the land described in the petition, with two good securities, to be approved by the Probate Court, conditioned for the payment of such sum to the wife upon the death of her husband and if she should then be living, but said bond to be null and void if the wife should predecease the husband.

Wannamaker v. Brown, 77 S. C., 64; 57 S. E., 665.

Endorsement
on deed or
mortgage.Civ. '02, §
2395.

Sec. 3155. Upon the compliance by the husband with either of the above conditions, the Probate Judge shall endorse upon the deed or mortgage the following language: I,, Probate Judge of the County of, and State of South Carolina, do certify that Mrs, wife of the within named, was regularly adjudged a person of unsound mind on the day of, 19.., by, Probate Judge of the County of, and State of South Carolina; that on the day of, 19.., the petition was filed in this Court to bar the dower of the said Mrs., and the decision barring the dower was rendered on the day of, 19.. Given under my hand and official seal this day of, 19..

Sec. 3156. The above endorsement on any such deed or mortgage shall have the same force and effect as renuncia-

tion of dower made as now provided by law, and shall be recorded in all respects as such renunciations are required to be recorded.

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Endorsement
to bar dower.

Sec. 3157. Like proceedings may be had for divesting the rights of dower of the insane wife of any married man now outstanding in real estate hitherto granted, sold, aliened, mortgaged or otherwise incumbered, such certificate by the Probate Judge in case of the loss of the original deed to be endorsed across the record in the office where the original was recorded.

Civ. '02, §
2396.
Like pro-
ceedings as to
existing deeds.
Civ. '02, §
2397.

Sec. 3158. In case said married woman shall not have been at the time of filing said petition already adjudged of unsound mind, but the fact of such unsoundness be proved to the satisfaction of said Probate Judge, then said Probate Judge shall, upon the compliance by said husband with the conditions set forth in Section 3154, endorse upon the deed, mortgage or other instrument, or upon the record, in case of the loss of the original, the following language: I,, Probate Judge of the County of, and State of South Carolina, do certify that Mrs., wife of the within named, has this day been by me adjudged of unsound mind upon the petition filed on the day of, in this Court, to bar the dower of said Mrs. and a decision barring the dower has been rendered thereon. Given under my hand and seal this day of And such endorsement shall be in all respects as effectual to bar the dower of such married woman as in cases when such married woman has been already adjudged of unsound mind.

Where un-
soundness ex-
ists, but not
adjudged.
Civ. '02, §
2398.

Form of en-
dorsement.

A bar to
dower.

ARTICLE III.

PROCEEDINGS FOR ALLOTMENT OF DOWER.

SEC.
3159. Widows may apply to Pro-
bate Court for writ of ad-
measurement.
3160. Court to issue summons to
show cause; upon whom to
be served, &c
3161. No cause being shown, writ
of admeasurement to issue;
Commissioners, how nomi-
nated, duty of.

SEC.
3162. Respondent refusing to nomi-
nate, Court appoints.
3163. Commissioners may call in
surveyor; expenses; by
whom to be paid.
3164. True value of land to be re-
garded; when a sum of
money may be assessed in
lieu of dower.

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SEC.

3165. Value; how assessed against purchaser; improvements.

3166. How assessed when husband died seized.

SEC.

3167. Proceedings for allotment of dower in Circuit Court to conform to regulations of this Article.

Secret and fraudulent conveyance to defeat dower right.—Brooks v. McMeekin, 37 S. C., 285; 15 S. E., 1019.

Widows may apply to Probate Court for writ of admeasurement.

Civ. '02, § 2399.

Section 3159. Any woman who is entitled to dower or thirds in the lands of which her deceased husband was seized in fee at any time during their marriage may apply to the Judge of Probate of the County in which said lands are situated for a writ of admeasurement thereof, to be directed to certain persons who shall be appointed for that purpose.

Where wife has renounced dower on a mortgage, she cannot ask the Court to transfer her inchoate right to the surplus proceeds of sale in foreclosure.—Grube v. Lillenthal, 51 S. C., 442; 20 S. E., 230; Miller v. Farmers Bank, 49 S. C., 427; 27 S. E., 514. Right of non-resident widow.—Lamar v. Scott, 3 Strob., 562. Conflict of State law.—Barnes v. Cunningham, 9 Rich. Eq., 475. Validity of marriage.—Woods v. Woods, 2 Bay, 476.

Inchoate dower is a substantial right of property and not a lien.—Shell v. Duncan, 31 S. C., 547; 10 S. E., 330. Dower in lands confiscated.—Boyer v. Rutledge, 1 Bay, 312; Wells v. Martin, 2 Bay, 20. Dower extend to lands alienated during coverture.—Avant v. Robinson, 2 McM., 215. Seizin for an instant sufficient.—Douglas v. Dickson, 11 Rich., 417. No dower in lands sold under judgment or charge obtained before marriage.—Jones v. Miller, 17 S. C., 380; Shiell v. Sloan, 22 S. C., 151; see also Verree v. Verree, 2 Brev., 211. Dower in lands held in joint tenancy during coverture.—Reed v. Kennedy, 2 Strob., 69; Shiell v. Sloan, 22 S. C., 151. The wife's dower in lands held by her husband as tenant in common is subject to the paramount right to partition, and will be barred by a sale for partition under the decree of Court.—Holley v. Glover, 36 S. C., 404; 15 S. E., 605; 31 Am. St. Rep. 833; 16 L. R. A., 776. But where the land is divided in kind, it attaches to the portion assigned him in severalty.—Gaffney v. Jeffries, 38 S. E., 216; 59 S. C., 565. Not in lands held under lease.—Whitmire v. Wright, 22 S. C., 446. But in partnership lands.—Reed v. Kennedy, 2 Strob., 67; Bowman v. Bailey, 20 S. C., 550; Agnew v. Renwick, 27 S. C., 562; 4 S. E., 223. Not in lands of devisee until debts of deviser are paid.—May v. May, Rich. Eq. Ca., 378. Failure of husband to record deed does not defeat dower in favor of bona fide purchaser.—Sondley v. Caldwell, 28 S. C., 580; 6 S. E., 818; Pickett v. Lyles, 5 S. C., 275. Dower barred by sale of land under mortgage for purchase money.—Fraser v. Center, 1 McC. Ch., 270; Crofts v. Crofts, 2 McC., 54; Brown v. Duncan, 4 McC., 346; Selbert v. Todd, 31 S. C., 206; 9 S. E., 822; Lavender v. Daniel, 58 S. C., 125; 36 S. E., 546. Where renounced on mortgage and land is sold thereunder during lifetime of husband, and surplus turned over to him, dower is lost.—Genobles v. West, 23 S. C., 154. But where sale is after death of husband, widow entitled to dower in surplus.—Klinck v. Kleckley, 2 Hill Ch., 250; Keith v. Trapier, Bail, Eq., 63; Davidson v. Graves, Bail, Eq., 268; Stoppelbein v. Shulte, 1 Hill, 290; Wilson v. McConnel, 9 Rich. Eq., 500; Hennegen v. Harilee, 10 Rich. Eq., 285. Widow owning part of mortgage is entitled to dower in lands covered by it.—Heath v. Blake, 28 S. C., 406; 5 S. E., 842. Dower merges in wife's fee simple title.—Youmans v. Wagner, 30 S. C., 302; 9 S. E., 106. But not in title to trustee for wife.—Davis v. Townsend, 32 S. C., 112; 10 S. E., 837. Tax sale does not bar dower.—Shell v. Duncan, 31 S. C., 547.

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10 S. E., 330. Cannot be divested of right by will.—*Banister v. Banister*, 37 S. C., 529; 16 S. E., 612. Nor by sale under proceedings against husband in bankruptcy.—*Speak v. Kinard*, 4 S. C., 54. Where a sale in foreclosure was made subject to the widow's right of dower, she is not obliged to take her dower out of the surplus proceeds.—*Hill v. Gray*, 45 S. C., 91; 22 S. E., 802.

Estates subject to dower; lands taken by devisee.—*Millege v. Lamar*, 4 DeS., 617; *Scott v. Cohen*, 2 N. & McC., 298. Determinable estate.—*Peay v. Peay*, 2 Rich. Eq., 409. Lands held in trust.—*Davidson v. Graves*, Bail. Eq., 268; *McNish v. Pope*, 8 Rich. Eq., 112; *Brown v. Cave*, 23 S. C., 251. Lands mortgaged to secure purchase money.—*Frazier v. Center*, 1 McC. Eq., 270; *Bogle v. Rutland*, 1 Bay, 312; *Pledger v. Ellerbe*, 6 Rich. L., 266; *Calmes v. McCracken*, 8 S. C., 87; *Jeffries v. Fort*, 43 S. C., 48; 20 S. C., 755.

Practice in proceedings for allotment of dower.—*Frierson v. Jenkins*, 75 S. C., 471; 55 S. E., 890.

Sec. 3160. Immediately thereupon the Judge of the Probate Court shall cause a summons to be issued and directed to the heir at law of the deceased, or to his or her guardian if he or she shall be an infant, and if there be no guardian then to the executor or administrator of the deceased, or to any other person or persons who may be in the possession of any of the said lands, commanding him, her or them to appear at the Probate Court to be held in the County where the lands are situated that shall be held ten days after the service of the summons above mentioned, and show cause why the prayer of the petition should not be granted.

Court to issue summons to show cause; upon whom to be served, &c.

Civ. '02. § 2400.

Jurisdiction of Court.—*Stewart v. Blease*, 4 S. C., 37; *Tibbetts v. Langley Mfg. Co.*, 12 S. C., 467; *Witte v. Clark*, 17 S. C., 313.

Summons, not writ, no seal or test necessary.—*Ellis v. Falconer*, 1 Brev., 77. Issued to executor or administrator.—*McDowall v. McDowall*, Bail. Eq., 324. Or to one in possession.—*Plantt v. Payne*, 2 Bail., 319. Or to tenant for life or in fee.—*Kennedy v. McAlley*, 9 Rich., 395.

As cause for defense, Statute of Limitations may be pleaded.—*Lide v. Reyrols*, 1 Brev., 76; *Ramsey v. Dozier*, 3 Brev., 246; *Mitchell v. Poyas*, 1 N. & McC., 85; *Rickard v. Talbird*, Rice Eq., 158; *Wilson v. McLenaghan*, McM. Eq., 35; *Caston v. Caston*, 2 Rich. Eq., 1. Adverse possession.—*Hill v. Gray*, 45 S. C., 91; 22 S. E., 802.

Deeds not necessary to prove seizin.—*Smith v. Paysinger*, 2 Mill, 59. Proof of husband's possession during coverture *prima facie* sufficient.—*Forrest v. Trammell*, 1 Bail., 77; *Pledger v. Ellerbe*, 6 Rich., 266; *Stark v. Hopson*, 22 S. C., 42; *Stark v. Watson*, 24 S. C., 215; *ib.*, 30 S. C., 370; *Morgan v. Smith*, 25 S. C., 337; *Reid v. Stevenson*, 3 Rich., 66. Evidence from sale under execution against him.—*Steen v. Fowler*, 59 S. C., 220; 37 S. E., 829. Evidence as to marriage.—*Chapman v. Cooper*, 5 Rich., 452. Or of grantee of husband, under whom defendant holds.—*Plantt v. Payne*, 2 Bail., 319; *Gayle v. Price*, 5 Rich., 525. Grantee of husband may show that husband's estate was not a dowable estate.—*Secrest v. McKenna*, Rich. Eq., 72; *Whitmire v. Wright*, 22 S. C., 446; *Brown v. Cave*, 23 S. C., 251. Defendant not estopped from denying seizin when he never had deed from husband.—*Morgan v. Smith*, 25 S. C., 337. But is, where he derived title through him.—*Pledger v. Ellerbe*, 6 Rich., 266; *Plantt v. Payne*, 2 Bail., 319; *Pyles*

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v. Reeves, 4 Rich., 559; Gayle v. Price, 5 Rich., 525; Lyles v. Pickett, 5 S. C., 275; Horde v. Landrum, 5 S. C., 213.

Parties defendant—warrantor of grantee in possession of the lands is not a necessary party.—Robertson v. Curlee, 59 S. C., 454; 38 S. E., 116. He may be vouched and defend without being made a party defendant.—*Id.*; Goodwyn v. Taylor, 2 Brev., 171; Davis v. Wilbourne, 1 Hill, 27; Middleton v. Thompson, 1 Speer, 67; Wilson v. McElwee, 1 Strob., 65; Buckels v. Mouson. *Id.*, 448. All parties in possession of any portion of the land may be united as defendants in the same action.—Bostick v. Barnes, 59 S. C., 22; 37 S. E., 24; or not, at option of the demandants.—Shelton v. Shelton, 20 S. C., 569. Petition need not show the deforcement of demandant, or the possession by defendant.—Foxworth v. White, 5 Strob., 113. Answer pleading adverse possession.—Mitchell v. Poyas, 1 N. & McC., 85. Right to recover damages.—Heyward v. Cuthbert, 1 McC., 386.

Frierson v. Jenkins, 75 S. C., 474; 55 S. E., 890.

If no cause be shown, writ to be issued to five persons to admeasure dower; Commissioners; how appointed; to return plat of lands, with certificate of manner in which admeasurement was made; certificate to be recorded and to be final and conclusive on all parties concerned.

Civ. '02, § 2401.

Sec. 3161. On the return of the summons, if the heir at law, or his or her guardian, (if he or she be an infant,) or any other person or persons who may be in possession of the said lands, shall appear, and shall not show sufficient cause against the petition, then the said Court shall cause a writ for admeasurement of dower to be issued and directed to five persons, two of whom shall be nominated by each of the said parties, and a fifth by the Court, commanding them, or a majority of them, within one month thereafter, (being first duly sworn for that purpose,) fairly, justly, and impartially, according to the best of their judgment, to admeasure and mete out to the said petitioner, and put her in full and peaceable possession of one-third part of all the lands of her deceased husband; and when they have so done, they, or a majority of them, shall immediately return a general plat of the said lands, with a certificate thereon in writing, under their hands and seals, describing the manner in which they have made the admeasurement aforesaid, into the office of the said Court, there to be recorded, and the same shall be final and conclusive on all parties concerned therein.

Defendant must show cause at return of summons against writ.—Gist v. Tongue, 1 N. & McC., 110. Writ of admeasurement should direct assignment of dower or assessment in lieu of it.—Gibson v. Marshall, 5 Rich. Eq., 254. Otherwise invalid.—Jeffries v. Allen, 33 S. C., 268; 11 S. E., 164. Return conclusive where no malpractice or error in principle.—Leyesne v. Russel, 1 Bay, 459; Gibson v. Marshall, 6 Rich. Eq., 210; Stewart v. Blease, 5 S. C., 433; Erwin v. Brooks, 19 S. C., 46. Error to assign one part as dower in all lands of deceased.—Scott v. Scott, 1 Bay, 504; Witherspoon v. Watt, 18 S. C., 396. Error to assign more than law allows.—Hawkins v. Hall, 2 Bay, 449. Want of notice to defendant no ground to set return aside.—Beaty v. Hearst, 1 McM., 31. Nor is affidavit of two of the five Commissioners.—*Id.* Three Commissioners who met without notice to the others can make return.—Erwin v. Brooks, 19 S. C., 102. Court has control of return and can correct error in law.—Leyesne v. Russel, 1 Bay, 459.

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Heyward v. Cuthbert, 8 Brev., 482; Payne v. Payne, Dud. Eq., 124; Gibson v. Marshall, 5 Rich. Eq., 254. Objection to return must be made by exception.—Mellichamp v. Seabrook, 2 S. C., 366.

Frierson v. Jenkins, 75 S. C., 474; 55 S. E., 290.

Sec. 3162. If the person who shall be served with the said summons shall appear on day named therein, and, not showing sufficient cause against the petition, shall refuse to nominate two persons in the manner and for the purposes above directed, then the Court shall appoint them in behalf of such heir, or other person in possession of the said land, and they, together with those nominated by the petitioner, shall make such allotment and admeasurement as before required; and the said Commissioners, so appointed, or a majority of them, having made due return thereof, the same shall be as effectual and binding on all parties as if done in the manner first above prescribed.

If person appearing against petition refuses to nominate Commissioners, the Court shall appoint them instead.

Civ. '02, § 2402.

Sec. 3163. The persons who shall be appointed to make such admeasurement of dower, or a majority of them, may, if they shall think necessary, call in to their aid one or more surveyors to run the lines of the said lands, and also the division lines thereof; and the expenses that may be incurred in making such admeasurement of dower, as aforesaid, shall be paid by the person or persons who claim the property, or are in possession of the said lands.

Expenses of admeasurement to be paid by claimant; surveyor.

Civ. '02, § 2403.

Harshaw v. Davis, 1 Strob., 74.

Sec. 3164. The said Commissioners, or a majority of them, shall have power, and they are authorized and required, in the admeasurement aforesaid, to have relation and regard to the true and real value of the lands in question; and where the same cannot, in the opinion of a majority of them, be fairly and equally divided, without manifest disadvantage, then they, or a majority of them, as aforesaid, shall assess a sum of money to be paid to the widow in lieu of her dower by the heir at law, or such other person or persons who may be in possession of the said land.

Commissioners to have regard to real value of land; if it cannot be fairly divided, to assess a sum of money in lieu of dower.

Civ. '02, § 2404.

Where the widow has consented to an order for the sale of the land, the amount realized at the sale is the measure of value.—Lanier v. Griffin, 11 S. C., 565.

Should certify that land cannot be so divided.—Heyward v. Cuthbert, 8 Brev., 482; Wright v. Jennings, 1 Bail., 277. Otherwise must assign in land.—Brown v. Duncan, 4 McC., 346. If assigned in land, demandant entitled to third of rents and profits from defendant for time he has been in possession.—Rickard v. Talbird, Rice Eq., 158; Keith v. Trapier, Bail. Eq.,

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64; Mey v. Mey, Rich. Eq., Ca., 378; Gordon v. Stevens, 2 Hill Ch., 43; Woodward v. Woodward, 2 Rich. Eq., 23; Henagan v. Harlee, 10 Rich. Eq., 285; Clarke v. Tompkins, 1 S. C., 119; Stewart v. Pearson, 4 S. C., 4; Phinney v. Johnson, 15 S. C., 158. Return must show appraise value of land as well as assessment.—Wright v. Jennings, 1 Bail., 277; McCreary v. Cloud, 2 Bail., 343. One-sixth of appraise value of lands proper assessment for dower.—Wright v. Jennings, 1 Bail., 277; Payne v. Payne, Dud. Eq., 124; Stewart v. Blease, 4 S. C., 37; Jeffries v. Allen, 34 S. C., 189; 13 S. E. 365. One-third value of fee simple excessive.—Heyward v. Cuthbert, 3 Brev., 482. Court may correct assessment.—Payne v. Payne, Dud. Eq., 124. How dower assessed in surplus after encumbrances.—Keith v. Trapler, Bail. Eq., 63; Davidson v. Graves, Bail. Eq., 268; Stoppelbein v. Shulte, 1 Hill 200.

Value of dower, how assessed; improvements. **Sec. 3165.** On all assessments of dower against a purchaser, in behalf of a widow of a former owner, the value of the land at the time of alienation by the husband, with interest from the accrual of the right of dower, shall be taken and received by the Courts of this State as the true value on which to assess the said dower: *Provided*, That in all cases, whether the alienation be prior or subsequent to the death of husband, the value of the land, without reference to improvements put on it, shall be taken and received as the true value on which to assess the said dower.

Civ. '02, § 2405.

The provisions of this Section as to interest relate only to cases where the land has been aliened during coverture.—McCreary v. Cloud, 2 Bailey, 343.

Value at time of alienation, not improved value.—Russel v. Gee, 2 Mill 254; Brown v. Duncan, 4 McC., 346. But where lands were sold under judgment against administratrix and improved, widow entitled to dower in them as improved.—Phinney v. Johnson, 15 S. C., 158. Return must show appraised value of land as well as assessment.—Wright v. Jennings, 1 Bail. 277; McCreary v. Cloud, 2 Bail., 343. Price at Sheriff's sale during coverture not fixed value.—Alexander v. Hamilton, 12 S. C., 39. One-sixth of appraised value of lands proper assessment for dower.—Wright v. Jennings, 1 Bail., 277; Payne v. Payne, Dud. Eq., 124; Douglass v. McDill, 1 Speer. 139; Stewart v. Blease, 4 S. C., 37. Sum assessed no specific lien on land.—Williamson v. Gasque, 24 S. C., 100. But it is a fixed judgment.—Id.; Asbill v. Asbill, 24 S. C., 355.

Error to give judgment for rent during the detention from widow before the return from the Commissioners.—Pruitt v. Pruitt, 57 S. C., 155; 35 S. E., 485.

How assessed when husband died seized.

Civ. '02, § 2406.

Sec. 3166. On all assessments of dower in lands of which the husband died seized, the value of the lands at the time of the death of the husband, with interest from the accrual of the right of dower, shall be taken and received by the Courts of this State as the true value on which to assess said dower.

Section construed and applied.—Jeffries v. Allen, 34 S. C., 189. Where prior to this Section widow consented to sale under the decree, the price was taken as the value on which her dower was assessed.—Lanier v. Griffin, 11 S. C., 588. But as to such sale since.—Jeffries v. Allen, 34 S. C., 189;

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13 S. E., 365. Widow taking dower in place of legacy, the assessment must be paid by the devisees of the land.—Witherspoon v. Watts, 18 S. C., 396.

Where the dower cannot be allotted in kind, and the land is sold, the measure of dower is one-third of the surplus proceeds of sale, after payment of the incumbrances and expenses, for life, or one-sixth absolutely.—Gelger v. Gelger, 57 S. C., 521; 35 S. E., 1032.

Sec. 3167. The appointment of Commissioners and the issuing of the writ and other proceedings in relation to the allotment and admeasurement of dower in the Circuit Courts shall be made to conform as nearly as may be to the law regulating the allotment of dower in the Probate Court, as prescribed in this Article.

Proceedings for allotment of dower in Circuit Court to conform to regulations of this Article.

(iv. '02, § 2407.

Frierson v. Jenkins, 75 S. C., 474; 55 S. E., 890. Sale of corpus; adjustment of rights between life tenants and remainderman.—Kolb v. Booth, 80 S. C., 501.

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CHAPTER LXIV.

Estate for Life and for Years; Landlord and Tenant; Joint Tenants and Tenants in Common; Betterments; Miscellaneous Provisions Concerning Real Estate.

- ARTICLE 1. Estates for Life and for Years.
- ARTICLE 2. Landlord and Tenant.
- ARTICLE 3. Joint Tenants and Tenants in Common.
- ARTICLE 4. Betterments.
- ARTICLE 5. Miscellaneous Provisions Concerning Real Estate.

ARTICLE I.

ESTATES FOR LIFE AND FOR YEARS.

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3168. How rent recovered if tenant for life die before it is payable.	3171. Tenants holding over three months after lease determined and demand of possession, liable to pay double value of use.
3169. Amount recoverable; apportionment, &c.	3172. Warranty by tenant for life void; collateral warranties void against heir.
3170. Under-tenants to have possession until crop finished.	3173. Attornments to strangers by tenants void.

Section 3168. Where any tenant for life shall happen to die before or on the day on which any rent was reserved or made payable upon any demise or lease of any lands, tenements, or hereditaments, which determined on the death of such tenant for life, the executors or administrators of such tenant for life shall and may recover of and from such under-tenant or under-tenants of such lands, tenements, or hereditaments, the rent thereof as prescribed in the next Section.

How rent recovered if tenant for life die before it is payable.
Civ. '02, § 2408.

Garland v. Crow's Executors, 2 Bail., 24.

Sec. 3169. If such tenant for life die on the day on which the rent was made payable, the whole, or if before such day, then a proportion of such rent, according to the time such tenant for life lived of the last year or quarter of a year,

Proportion to be paid.
Civ. '02, § 2409.

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or other time in which the said rent was growing due as aforesaid, making all just allowances, or a reasonable part thereof respectively.

Sec. 3170. If any person shall rent or hire lands of a tenant for life, and such tenant for life dies, the person hiring such land shall not be dispossessed until the crop of that year is finished, he or she securing the payment of the rent when due.

Under-tenants to have possession until crop is secured.

Civ. '02, § 2410.

This security must be given to the remainderman for the proportion that arises after death of tenant for life.—*Freeman v. Tompkins*, 1 Strob. Eq., 53.

Sec. 3171. All tenants, whether for life or years, by sufferance or at will, or persons coming in under or by collusion with them, who shall hold over after the legal determination of their estates, after demand made in writing for delivering possession thereof by the person having the reversion or remainder therein, or his agent, such tenant or other person holding over for the space of three months after such demand shall forfeit double the value of the use of the premises, recoverable by action.

Penalty on tenants continuing in possession three months after demand of possession.

Civ. '02, § 2411.

Not unconstitutional.—*Talvande v. Cripps*, 3 McC., 147. Where landlord recovers this forfeiture he cannot sue for damages for holding over.—*Cripps v. Talvande*, 4 McC., 20. Liability for this forfeiture begins from demand and not from expiration of three months.—*Reeves v. McKenzie*, 1 Bail., 497. Tenant under agreement with husband or life tenant holding over after her death is, as to remaindermen, a trespasser.—*Williams v. Caston*, 1 Strob., 130.

Termination of tenancy from year to year.—*Wilson v. Rodman*, 30 S. C., 210; 8 S. E., 1; *McFall v. McFall*, 35 S. C., 559; 14 S. E., 985.

Where life tenant dies after March 1st, rent goes to personal representative,—*Newton v. Odom*, 67 S. C., 1; 45 S. E., 105; *Bowen v. True*, 74 S. C., 486; 54 S. E., 1018.

Sec. 3172. All warranties which shall be made by any tenant for life of any lands, tenements, or hereditaments, the same descending or coming to any person in reversion or remainder, shall be void and of none effect.

Warranty by tenant for life void; collateral warranties void against heir.

All collateral warranties which shall be made of any lands, tenements, or hereditaments, by any ancestor who has no estate of inheritance in possession in the same, shall be void against his heir.

Civ. '02, § 2412.

Conveyance in fee by tenant for years disavows his tenancy, and landlord may recover the possession.—*Trustee v. Jennings*, 40 S. C., 169; 18 S. E., 257.

Attornments to strangers by tenants void.

Civ. '02, § 2413.

Sec. 3173. To prevent the difficulty and expense to which landlord or landlords, lessor or lessors, may be put by the fraudulent practice of tenants in attorning to strangers who

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claim title to the estates of their respective landlord or landlords, lessor or lessors (whereby the possession of estates in lands, tenements, and hereditaments, is rendered very precarious, and such landlord or landlords, lessor or lessors are by that means turned out of possession of their respective estates,) all and every such attornment and attornments of any tenant or tenants of any lands, tenements, or hereditaments, shall be deemed and taken to be absolutely null and void, to all intents and purposes whatsoever; and the possession of their respective landlord or landlords, lessor or lessors, shall not be deemed or construed to be anywise changed, altered, or affected by any such attornment or attornments: *Provided*, That nothing herein contained shall extend to vacate or affect any attornment made pursuant to, and in consequence of, some judgment, decree, or order of Court, or made with the privity and consent of the landlord or landlords, lessor or lessors.

Attornment to stranger.—Hill v. Williams, 41 S. C., 184; 19 S. E., 290.

Tenant under trespasser could with his consent attorn to true owner.—Moore v. Johnson, 2 Speer., 288.

Estoppel to deny landlord's title.—Harvey v. Harvey, 26 S. C., 608; 2 S. E., 3.

ARTICLE II.

LANDLORD AND TENANT.

SEC.

3174. Lease for more than one year to be recorded, &c.

3175. When and how lease shall terminate.

3176. Parol lease not valid for more than one year from entry.

3177. Action for use and occupation, when it lies; evidence in.

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3179. The same; when Magistrates may put landlord in possession, &c.

3180. The same; appeal by tenant to Court of Common Pleas; proceedings thereon.

3181. Landlord's remedy where tenant holds over; proceedings before two Magistrates.

SEC.

3182. Proceedings for ejectment of tenant at will, domestic servants, &c.

3183. Tenants of houses and tenements, holding over or failing to pay rent, how dispossessed; proceedings; fees, &c.

3184. Penalty on tenant failing to deliver possession after giving notice of intention to quit, &c.

3185. Tenant making alterations, &c., without leave forfeits residue of term; forfeiture, how to be ascertained, &c.

3186. Effect of payment of rent to grantor.

3187. Before removal of tenant's goods taken under execution, rent due must be paid to landlord; proviso.

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3188. Lessor may distrain goods fraudulently removed, when.

3189. Goods, &c., previously sold not subject to seizure; only property of the tenant in his own right can be seized.

3190. Distress subject to prior liens.

3191. Rent in arrears may be distrained for after expiration of lease; proviso.

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3192. Removal from leased premises before termination of lease gives right to distrain.

3193. Action for rent due on demise for life.

3194. Distress must be reasonable.

3195. How goods distrained may be replevied.

Section 3174. All leases or contracts in writing, hereafter to be made between landlord and tenant, for a longer term than twelve months, shall not be valid in law, against the rights and claims of third persons, unless the same shall have been recorded in the office of the Register of Mesne Conveyances within forty days from the time of execution thereof, nor shall any payment made in anticipation of rent, for a longer period than twelve months, be considered a valid discount against the claims and rights of third persons.

Lease for more than one year to be recorded in forty days.

Civ. '02, § 2414.

Enforced as to recording.—City Council v. Page, Speer Eq., 159. Sufficient notice may supply want of registry.—/b. Where mortgage provides that after sale and conveyance, under power therein, the mortgagor shall be tenant of the purchaser, at stipulated rent, the relation of landlord and tenant is established.—Swygert v. Goodwin, 32 S. C., 146; Brewster v. McNab, 36 S. C., 274; 15 S. E., 223. When contract with laborer is not a lease.—McCutchen v. Crenshaw, 40 S. C., 511; 19 S. E., 140.

Sec. 3175. Every lease or written agreement hereafter to be entered into, for the renting and leasing of lands and tenements, shall absolutely, and unequivocally end and determine at the period therein stated, without it being obligatory on the tenant or the landlord to give the notice required by law.

When and how lease shall terminate.

Civ. '02, § 2415.

Sec. 3176. No parol lease shall give a tenant a right of possession for a longer term than twelve months from the time of entering on the premises; and all such leases shall be understood to be for one year, unless it be stipulated to be for a shorter term.

No parol lease valid for more than one year.

Civ. '02, § 2416.

From the Statutes and the decisions interpreting them the following principles may be deduced: (1) A parol lease gives a tenant a right of possession for a term of twelve months from the time of entering on the premises. If the lease is for a term less than 12 months, of course, the tenant would only be entitled to hold possession for the time stipulated after entering into possession of the premises. (2) A parol lease undertaking to give a tenant a right of possession for a longer term than twelve months is within the Statute of Frauds. Nevertheless, if the tenant is permitted to enter on the premises by virtue of such agreement, he shall have a right of possession for

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12 months from the time of such entry, but no longer. (3) A parol lease under which the tenant enters upon the premises shall, after the term of 12 months from the time of entering on the premises, have the effect of an estate at will only. (4) If a landlord refuses to permit a tenant to enter on the premises under a parol lease, no action shall be brought to charge him upon such contract, even if the lease is not for a term exceeding 12 months.—Hillhouse v. Jennings, 60 S. C., 392; 38 S. E., 599.

Such parol leases have been held valid for certain purposes in above case of Hillhouse v. Jennings, and also in Davis v. Pollock, 36 S. C., 544; 15 S. E., 718; Godard's Exors. v. R. R., 2 Rich. Law., 349; McDonald v. Elfe, 1 N. & McC., 501; Clark v. Bynum, 3 McC., 298. But it does not give right to possession against landlord or any person claiming under him after the first year.—State v. Mays, 24 S. C., 195.

If a tenant under a parol lease for a year simply continues in possession after termination of lease, he may be tenant at will, or a tenant from year to year according to circumstances.—Matthew v. Hipp, 66 S. C., 162; 44 S. E., 577.

Rents, how
recovered
where demises
are by deeds.

Civ. '02, §
2417.

Sec. 3177. It shall and may be lawful to and for any landlord or landlords, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements, or hereditaments held or occupied by a tenant or tenants, in an action for the use and occupation of what was so held or enjoyed; and if, in evidence on the trial of such action, any parol demise, or any agreement (not being by deed) whereon a certain rent was reserved, shall appear, the plaintiff in such action shall not therefor be non-suited, but may make use thereof as an evidence of the amount of the damages to be recovered.

Plaintiff need show no further title than that defendant holds under lease from him.—Moorehead v. Barrett, Chev., 99. But defendant may show title in another, if lessor declared he would not claim rent if title was in another.—Woods v. Chambers, 3 Rich., 150. It is good defense to such action that the defendant has been deprived of the beneficial enjoyment of the premises.—Coogen v. Parker, 2 S. C., 255.

Generally.—Smith v. City of Charleston, 1 Bay, 443; Dorrill v. Stephens, 4 McC., 59; Fronty v. Wood, 2 Hill, 367; Garlington v. Copeland, 32 S. C., 61; 20 S. E., 616.

Provision for
landlords
where ten-
ants desert
premises.

Civ. '02, §
2418.

Sec. 3178. If any tenant holding any lands, tenements, or hereditaments, or where the rent reserved shall be full three-fourths of the yearly value of the demised premises, who shall be in arrear for one year's rent, shall desert the demised premises, and leave the same uncultivated or unoccupied, it shall and may be lawful to and for two or more Magistrates of the County, (having no interest in the demised premises,) at the request of the lessor or landlord or his, her, or their bailiff or receiver, to go upon and view the same, and to affix, or cause to be affixed, on the most notorious part of the premises, notice in writing, which shall be

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(at the distance of fourteen days at least) they will return to take a second view thereof.

Tenant justified in quitting when landlord's title has been sold under execution by the Sheriff.—Holmes v. McMaster, 1 Rich. Eq., 340.

Sec. 3179. If, upon such second view, the tenant, or some person on his or her behalf, shall not appear and pay the rent in arrear, then the said Magistrates may put the landlord or landlords, lessor or lessors, into the possession of the said demised premises; and the lease thereof to such tenant, as to any demise therein contained only, shall from thenceforth become void.

Ejectment of tenant for non-payment of arrears of rent.

Civ. '02, § 2419.

Sec. 3180. Such proceedings of the said Magistrates shall be examinable in a summary way by the Courts of Common Pleas of the respective Counties in which such lands or premises lie, which Courts are empowered to order restitution to be made to such tenant, together with his or her expenses and costs, to be paid by the lessor or landlord, if they shall see cause for the same; and, in case they shall affirm the act of the said Magistrates to award costs, not exceeding twenty-five dollars, for the frivolous appeal.

Tenant may appeal.

Civ. '02, § 2420.

Sec. 3181. On the determination of any lease, in writing or by parol, of any lands and tenements within this State when the lessee shall hold over thereafter, any two Magistrates in the County where the same may be situated, are authorized and required, on the complaint and due proof thereof by any lessor, his heirs or assigns, to place the names of twenty-four neighboring persons, qualified by law to serve as jurors, in a box, and from them draw the names of eighteen, and shall thereupon issue their warrant, in the nature of a summons, directed to the Sheriff or any Constable of the County, commanding such officer to summon the said eighteen persons to attend at a certain place, within four days, and at a place appointed; and from the said eighteen qualified jurors so summoned, twelve shall be drawn in the same manner, who shall be empanelled to try the facts: *Provided*, That if, from the said eighteen so summoned, the number of twelve cannot, from any cause, be had, the Magistrates are authorized to complete the number from the remaining originally selected. And the said Magistrates shall also summon the said lessee, or any other person claiming or coming into possession under him, at the

How tenants in writing or by parol holding over may be removed.

Civ. '02, § 2421.

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same time, and in the same way, likewise to appear before them to show cause, if any such lessee or other person may have, why possession of the premises should not be forthwith restored to such lessor, his heirs or assigns; and if, upon hearing the case, the jury shall be satisfied that the complainant is entitled to the possession of the premises in question, they shall so find; whereof the Magistrates shall make a record, and shall thereupon issue their warrant, directed to the Sheriff of the County wherein the lands are situated, commanding him forthwith to deliver to such lessor, his heirs or assigns, full possession of the premises, and to levy all expenses incurred, of the goods and chattels of the lessee, or the person in possession as aforesaid.

No previous demand for possession is required.—*Keller v. Pagan*, 54 S. C., 255; 32 S. E., 355.

No notice to quit necessary, as originally required by Act 1812.—*Davis v. Carew*, 1 Rich., 275. The jurisdiction under this Section is exclusive and final.—*Leonard v. McCool*, 3 Strob. Eq., 44; *Moultrie v. Dixon*, 26 S. C., 296; 2 S. E., 24. But Superior Court may, under proper proceeding, decide whether the inferior tribunal had jurisdiction.—*Fallin v. Coogan*, 12 Rich., 44. Landlord has no right to take the law into his own hands and eject such tenant without legal process.—*Sharp v. Kinsman*, 18 S. C., 108. Lease may be determined by agreement of forfeiture for non-payment of rent.—*Fallin v. Coogan*, 12 Rich., 44. The Acts of 1808 and 1817 have not altered the common rule of three months' notice to quit in tenancy from year to year.—*Godard v. R. R. Co.*, 2 Rich., 346. The summons must show upon its face the allegations necessary to give this jurisdiction.—*State v. Latimer*, 26 S. C., 208; 2 S. E., 1. Party in possession declining to lease from purchaser of the lands or to surrender possession, Magistrates have no jurisdiction hereunder to eject him.—*b. Sheriff bound to obey the warrant.*—*State v. Black*, 34 S. C., 194; 13 S. E., 361.

Ejectment of
tenants at
will, domes-
tic servants,
&c.

Civ. '02, §
2422.

Sec. 3182. When any person or persons have gone, or shall hereafter go, into possession of any land or tenement of another, either as a tenant at will, or under a contract to serve another, either as a domestic servant or common laborer, or otherwise, and shall refuse or neglect to quit the premises so occupied, when required by the person letting the same, or upon the termination of the contract, either by its own limitation or from any other cause, it shall be lawful for the person letting the premises to apply to any Magistrate, whose duty it shall be to have a notice served upon the person or persons so refusing to quit, to show cause before him, at the expiration of ten days from the personal service of such notice, why he should not be ejected: and if no sufficient cause be then shown, it shall be the duty of the Magistrate forthwith to issue his warrant,

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directed to the Sheriff or any Constable, requiring him, without delay, to eject such person or persons from the premises so let, and authorizing him to use such force as may be necessary.

Magistrate has jurisdiction to determine whether as a fact the relations of landlord and tenant exists; and if so, whether of the character required; and his conclusion, though erroneous, is no ground for prohibition by Superior Court.—*State v. Flickling*, 10 S. C., 301; *Morris v. Palmer*, 44 S. C., 562; 22 S. E., 726. But such interference will be made when it appears that the issue was not within jurisdiction of Magistrate.—*Baldwin v. Cooley*, 1 S. C., 256; *State v. Flickling*, 10 S. C., 301. Findings of fact by Magistrate are final and cannot be reviewed under any process.—*State v. Fort*, 24 S. C., 510. But where the character of the tenancy depends upon a written instrument and the Magistrate construes it as not creating a tenancy at will, the Superior Court, upon contrary construction, will, upon proper proceedings, restrain his order.—*Id.* Where tenant leases land for a year, but continues possession for two years longer, it is not tenancy at will, and Magistrate has no jurisdiction.—*Id.* Where sub-tenant enters under promise of landlord to execute a new lease, which he afterwards refuses to do, he does not become a tenant at will under this Section.—*Morris v. Palmer*, 44 S. C., 462; 22 S. E., 726. Jurisdictional facts must appear upon the face of the notice.—*State v. Latimer*, 26 S. C., 208; 2 S. E., 1; *Carlisle v. Prior*, 48 S. C., 183; 26 S. E., 244; *Baldwin v. Cooley*, 1 S. C., 256. Appeal under this Section.—*Moultrie v. Dixon*, 26 S. C., 296; 2 S. E., 24.

Sec. 3183. In all cases where tenants hold over after the expiration of their lease or contract for rent, whether the same be in writing or by parol, or shall fail to pay the rent when the same shall become due, the landlord is hereby authorized and empowered, either in person or by agent, to demand possession thereof from the tenant or person in possession thereof; and in case of refusal or resistance, it shall be lawful for the person so letting said premises, houses or tenements, his agent or attorney, to apply to a Magistrate, whose duty it shall be to have a notice served upon the person or persons so refusing to be dispossessed to show cause before him, if any he can, within three days from the date of said personal service, of such notice, why he should not be dispossessed; and if he fails to show sufficient cause, it shall be the duty of the Magistrate forthwith to issue his warrant, directed to the Sheriff of the County or any Constable thereof, requiring him without delay to dispossess said person or persons from the premises so let, and authorizing him to use such force as may be necessary: *Provided*, That said Magistrate shall receive fifty cents for issuing said notice and warrant, the Sheriff or Constable a fee of one dollar for executing the same, to be paid by the party so refusing to be dispossessed, and if said costs cannot be

Tenants
holding over
and failing to
pay rent.

Civ. '02, §
2423.

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collected from the tenant, then the same shall be paid by the landlord, except in case of Constables and Magistrates in Counties where they receive salaries: *Provided*, That in case any tenant is wrongfully dispossessed, he, she or they may have an action for damages against said landlord: *Provided, further*, That either party to the proceeding shall have the right to appeal, which appeal shall stay further proceedings upon the tenant entering into bond with sufficient surety or sureties to pay the landlord all damages which he may sustain thereby: *Provided, further*, That on demand for trial by jury of either party to the proceedings, trial by jury shall be allowed to decide the issue of fact arising thereunder.

Demand for possession is a necessary prerequisite to proceeding under this Statute.—Kellar v. Pagan, 54 S. C., 255; 32 S. E., 355. As to right of appeal prior to Act of 1901, see same case.

Is not unconstitutional.—Frazee v. Beattie, 26 S. C., 348; 2 S. E., 125; Swygert v. Goodwin, 32 S. C., 146. This proceeding is not an action involving title to land, but a summary proceeding.—State v. Marshall, 24 S. C., 507; Swygert v. Goodwyn, 32 S. C., 146; 10 S. E., 933. Notice to show cause must be personally served in order to give Magistrate jurisdiction.—State v. Marshall, 24 S. C., 507. What is such service.—Bradley v. Bell, 34 S. C., 107; 12 S. E., 1071. This Section gives jurisdiction only when record shows a case under it.—Baldwin v. Cooley, 1 S. C., 256; State v. Latimer, 26 S. C., 208; 2 S. E., 1. What sort of tenancy was created by the parol contract, and whether rent was due, were questions of fact to be determined by the Magistrate and not reviewable above.—*Ib.*

The relation of landlord and tenant held established under covenant and power of sale contained in mortgage.—Brewster v. McNab, 36 S. C., 274; 15 S. E., 233. Held established by the contract in Rakestraw v. Floyd, 54 S. C., 288; 32 S. E., 419.

Application for change of venue.—Witte v. Cave, 73 S. C., 15; 52 S. E., 736; Mayes v. Evans, 80 S. C., 362; 61 S. E., 216. Length of notice to tenant; waiver.—Mayes v. Evans, 80 S. C., 362; 61 S. E., 216. Existence of relation of landlord and tenant—a written contract of sale may be rescinded, and a rent contract substituted, even by parol.—Lewis v. Cooley, 81 S. C., 461; 62 S. E., 868; Fripp v. Fripp, Rice Eq., 108; Mosely v. Witt, 79 S. C., 141; 60 S. E., 520. Retention of cheque as payment of rent.—English v. McDowall, 82 S. C., 282; 64 S. E., 390.

Penalty for not delivering possession in accordance with notice of intention to quit.

Civ. '02, § 2424.

Sec. 3184. In case any tenant shall give notice in writing of his intention to quit the premises rented by him, and shall not accordingly deliver up the possession at the time in such notice contained, the said tenant, his executors or administrators, shall pay to the landlord double the rent which he otherwise would have been liable to pay: *Provided, nevertheless*, That nothing herein contained shall be construed to give such tenant a right to discontinue or determine his tenancy by such notice, in any other manner than according to the laws of force at the time of giving the same.

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Sec. 3185. It shall not be lawful for any tenant to make alterations or remove buildings erected upon the leased premises, without permission first had in writing, under pain of forfeiting the residue of the unexpired term of said lease or agreement, parol or written; which said forfeiture shall be ascertained by Magistrate, with the jurors to be drawn in the same manner as is prescribed by Section 3181, and with like powers where the landlord is to be placed in possession.

Tenant not allowed to make alterations.

Civ. '02, § 2425.

Enforced.—McDonald v. Elfe, 1 N. & McC., 501; Clark v. Bynum, 3 McC., 298. Superior Court will not interfere with the Magistrate Court merely for irregularity in proceeding, if acting within the jurisdiction.—McDonald v. Elfe, 1 N. & McC., 501.

Sec. 3186. No tenant shall be prejudiced or damaged by payment of any rent to any grantor or conusor, or by breach of any condition for non-payment of rent, before notice shall be given to him of such grant by the conusee or grantee.

Effect of payment of rent to grantor.

Civ. '02, § 2426.

Sec. 3187. No goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will or otherwise, shall be liable to be taken by virtue of an exception or any pretence whatsoever, unless the party at whose suit the said execution is sued out, shall, before the removal of such goods from off the said premises, by virtue

Party taking goods, &c., in execution before removal must pay landlord rent due, provided it amounts to no more than one year's rent.

Civ. '02, § 2427.

of such execution or extent, pay to the landlord of the said premises, or his bailiff, all such sum or sums of money as are or shall be due for rent for the said premises at the time of the taking of such goods or chattels by virtue of such execution: *Provided*, The said arrears of rent do not amount to more than one year's rent; in case the said arrears shall exceed one year's rent, the party at whose suit such execution is sued out, on paying the said landlord or his bailiff one year's rent, may proceed to execute his judgment; and the Sheriff or other officer is hereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent as the execution money.

Does not extend to case where rent is not due and goods are not subject to distress for rent in arrears.—Watson v. Hudson, 3 Brev., 60; Ayres v. DePras, 2 Speer, 367; In Re Connor, 12 Rich., 349; Dawson v. Dewan, 12 S. C., 499. Only personal chattels are meant; not chattels real.—Hamilton v. Reedy, 3 McC., 88. Only a lien for the rent due is given to the landlord; not right to distrain goods taken in execution.—*Id.* Notice to Sheriff entitles landlord to demand one year's rent due or to extent of value of goods.—Margrat v.

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Swift, 3 McC., 878; In Re Connor, 12 Rich., 349; Sullivan v. Ellison, 20 S. C., 481. A prior dormant execution has no preference over distress levied for more than one year's rent.—Blake v. DeLiesselline, 4 McC., 496. Crops of tenant distrained and taken in possession by landlord for rent cannot be taken away under seizure by warrant to enforced agricultural lien.—Brewster v. McNab, 36 S. C., 274; 15 S. E., 233.

Distress for
rent.

Civ. '02, §
2428.

Sec. 3188. In case any lessee for life or lives, term of years, at will or otherwise, of any messuages, lands or tenements, upon the demise whereof any rents are or shall be reserved or made payable, shall convey or carry off from such demised premises his goods or chattels, it shall and may be lawful to and for such lessor or landlord, or any person or persons by him for that purpose lawfully empowered, within the space of ten days next ensuing such conveying away or carrying off such goods or chattels, as aforesaid, to take and seize such goods and chattels, wherever the same shall be found, as a distress for the said arrears of such rent, and the same to sell or otherwise dispose of, in such manner as if the said goods and chattels had actually been distrained by such lessor or landlord in and upon such demised premises for such arrears of rent, any law, usage or custom to the contrary in any wise notwithstanding.

See Statute 2 Geo. 2, Ch. 19; 2 Coopers Statutes at Large, 572. This remedy is cumulative to the agricultural lien law.—Sullivan v. Ellison, 20 S. C., 484; Parrott v. Malpass, 49 S. C., 4; 26 S. E., 884.

No distress will lie except for rent expressly reserved.—Jacks v. Smith, 1 Bay, 315; Smith v. Sheriff, 1 Bay, 443; Marshall v. Giles, 3 Brev., 488; Reeves v. McKenzie, 1 Bail., 497. And not until it is due.—Bailey v. Wright, 3 McC., 484; O'Farrell v. Nance, 2 Hill, 484; Lander v. Ware, 1 Strob., 15. But it need not be reserved *eo nomine*.—Price v. Limehouse, 4 McC., 344. If payable in cotton, it is rent certain and subject to distress.—Fraser v. Davie, 5 Rich., 59; Huff v. Latimer, 33 S. C., 255. One tenant in common may distrain for rent due by his co-tenant.—Luther v. Arnold, 8 Rich., 24. Executor or administrator may not distrain for rent due at death of landlord.—Bagwell v. Jamison, Chev., 249. Authority of distress warrant terminates at his death.—Salvo v. Schmidt, 2 Speer, 512. Lien of distress on goods replevied is never lost.—Harris v. Clayton, 1 McM., 194. Distress herein must be levied within five days.—Rogers v. Brown, 1 Speer, 283. As to law of distress.—Ex parte Knobloch, 26 S. C., 331; 2 S. E., 612. Where note for rent is given to two and one dies, the survivor has all the remedy given by law for its collection, no matter who owned the land.—Monday v. Elmore, 27 S. C., 126; 3 S. E., 65.

Liability of landlord for wrongful acts of his agent making the distress.—Jones v. Parker, 81 S. C., 214; 62 S. E., 261.

Sec. 3189. Nothing herein contained shall extend, or be construed to extend, to empower such lessor or landlord to take or seize any goods or chattels as a distress for arrears of rent which shall have been sold *bona fide* and for a valuable consideration before such seizure made; and no property

shall be seized under a distress warrant for such, except such as belongs to the tenant in his own right: *Provided*, That nothing herein contained shall interfere with or in any manner abridge the right of such lessor or landlord to take or seize any or all of such goods and chattels wherever they may be found as distress for arrears for rent, when any tenant so in arrears shall make an assignment for the benefit of his creditors, or when any tenant after the contract of tenancy has been entered into shall mortgage said goods and chattels.

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Goods previously sold not subject to seizure; only property owned by tenant can be seized; right of seizure in case of assignment for benefit of creditors or mortgage of goods after contract of tenancy.

Mortgagor's interest in personal property after condition broken not subject to distress.—*Trescott v. Smythe*, 1 McC. Ch., 486; *Ex Parte Knobloch*, 26 S. C., 331; 2 S. E., 612. Property belonging to another fund on the premises, as well as that removed, is exempt from such seizure.—*Ex Parte Knobloch*, 26 S. C., 331; 2 S. E., 612. Property on premises in possession of general assignee not subject to distress as property of assignor.—*Bischoff v. Trenholm*, 36 S. C., 76; 15 S. E., 346; *Dial Hardware Co. v. Levy*, 38 S. C., 285; 17 S. E., 776.

Civ. '02, § 2429.

Sec. 3190. In all cases where property distrained for arrears of rent is subject to the lien of a mortgage placed upon said property before the rent contract was entered upon or before said property was brought upon the rented premises, the landlord shall have the right to pay the amount due upon such mortgage debt, and subject said property to the payment of the same, as well as to the payment of the amount due for rent.

Distress for rent subject to prior liens on property.

Civ. '02, § 2430.

Sec. 3191. When tenants *pur autre vie* and lessees for years or at will hold over the tenements to them demised after the determination of such leases, it shall and may be lawful for any person or persons having any rent in arrears or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears, after the determination of the said respective leases, in the same manner as they might have done if such lease or leases had not been ended or determined: *Provided*, That such distress be made within the space of six calendar months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due.

Rent in arrear may be distrained for after expiration of lease.

Civ. '02, § 2431.

Proviso.

Sec. 3192. Should any tenant, for years or lesser period, remove from any demised premises before the expiration of the term for which said premises were demised, leased or

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Time in which distress warrants may issue, in case of removal from rented premises.

1903, XXIII, 86.

Action for debt may be brought for rent on demise for life.

Civ. '02, § 2433.

Distress shall be reasonable; damage for unreasonable distress.

Civ. '02, § 2434.

How goods seized for rent may be replevied; how sold if not replevied.

Civ. '02, § 2435.

rented, then and in such case the rent which would be earned up to the end of the month in which the tenant leaves shall be immediately due and payable; and it shall be lawful for the landlord at any time within ten days after the removal of such tenant to issue his distress warrant for such an amount as may be due up to the expiration of the month in which the tenant leaves the premises.

Sec. 3193. Any person or persons having any rent in arrear or due upon any lease or demise for life or lives, may bring an action or actions of debt for such arrears of rent in the same manner as they might have done in case such rent were due and reserved upon a lease for years.

Sec. 3194. Every distress for rent shall be reasonable and not too great, and any lessor or landlord who makes unreasonable and excessive distress shall be liable for all damages sustained by the tenant whose goods are distrained by reason of such excessive distress. Such damage may be recovered by an action in any Court of competent jurisdiction.

This restores the provisions of the Statute of Marlebridge, 52 Hen. III. c. 4; 11 Cooper Stata. at Large, 418, which were held repealed in *Bender v. Ross*, 51 S. C., 217; 27 S. E., 627.

Punitive damages included.—*Jones v. McCreery Land & Inv. Co.*, 82 S. C. 456; 64 S. E., 225.

Sec. 3195. When goods and chattels have been distrained for rent reserved and due upon any lease or contract whatsoever, and the tenant whose goods have been taken shall not, within five days after such distress and notice thereof, replevy the same with sufficient security, to be given according to law, then, in such case, the person making the distress shall cause the goods distrained to be appraised by two sworn appraisers, and, after such appraisement, sell the same, in the same manner as goods taken under execution are required by law to be sold.

Provision for replevy ample.—*Evans v. Mayes*, 81 S. C., 188; 62 S. E. 207.

ARTICLE III.

JOINT TENANTS AND TENANTS IN COMMON.

SEC.
3197. Partition compellable between joint tenants and tenants in common.
3198. Jurisdiction of Court of Common Pleas in matters of partition declared.

SEC.
3199. Proceedings in Court of Common Pleas; writ, to whom issued; return of Commissioners; powers of Court, &c.
3200. Court may dispense with writ and order sale, upon testimony taken.

Section 3197. All joint tenants and tenants in common, and every of them, which now hold or hereafter shall hold, jointly or in common, for term of life, year or years, or joint tenants or tenants in common, where one or some of them have or shall have estate or estates for term of life or years, with the other that have or shall have estate or estates of inheritance or freehold in any lands, tenements, or hereditaments, shall and may be compellable to make severance and partition of all such lands, tenements, and hereditaments, which they hold jointly or in common for term of life or lives, year or years, where one or some of them hold jointly or in common for term of life or years with other, or that have an estate or estates of inheritance of freehold.

Partition compellable between joint tenants and tenants in common.

Civ. '02, § 2436.

No severance or partition shall be prejudicial or hurtful to any person or persons, their heirs or successors, other than such as are parties unto the said partition, their executors and assigns.

Id., § 2.

One who is joined in execution of a deed of partition, and retains a portion of the land assigned him cannot ask partition at the hands of the Court, while claiming under the deed.—Brickle v. Leach, 55 S. C., 510; 33 S. E., 720. Partition by joint agreement of heirs.—Horne v. McRae, 53 S. C., 51; 31 S. E., 701.

Partition demanded as a right.—Atkinson v. Jackson, 24 S. C., 594. But not where the joint estate arises of an illegal transaction.—Millhous v. Sally, 43 S. C., 318; 21 S. E., 268; Fricks v. Lewis, 26 S. C., 244; 1 S. E., 884. But not as long as testator directs estate to be kept together.—Callahan v. Callahan, 36 S. C., 455; 15 S. E., 727. Title claimed by defendant must be tried by jury before partition can be considered.—Capell v. Moses, 36 S. C., 559; 15 S. E., 711. Partition by parol agreement may be good and binding.—Haughabaugh v. Honald, 3 Brev., 97; Goodue v. Barnwell, Rice Eq., 198; Kennemore v. Kennemore, 26 S. C., 251; 1 S. E., 881; Roundtree v. Lane, 32 S. C., 160; 10 S. E., 941. Such partition by husband cannot avail against wife.—Jones v. Reeves, 6 Rich., 132. Tenant in common who has conveyed his interest not a necessary party.—McNish v. Gerard, 4 Strob. Eq., 66. Joint estate for joint lives may be partitioned.—Kelly v. Whipple, 2 S. C., 277. Lands lying in several Counties may be

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partitioned in same proceeding in one County.—*Daniels v. Moses*, 12 S. C., 130. Statutory lien for purchase money attached under Act 1791 not affected by repeal of that Act.—*Id.*; *Chalmers v. Jones*, 23 S. C., 463. But no such lien attached unless the provisions had been strictly complied with.—*Burnside v. Watkins*, 30 S. C., 459; 9 S. E., 518. As to estimate of rents and profits.—*Valentine v. Johnson*, 1 Hill Ch., 49; *Lyles v. Lyles*, 1 Hill Ch., 86; *Backler v. Farrow*, 2 Hill Ch., 111; *Woodward v. Clarke*, 4 Sireb Eq., 170; *Jones v. Massey*, 9 S. C., 376; *Jones v. Massey*, 14 S. C., 292; *Scaife v. Thompson*, 15 S. C., 338; *McCreary v. Burns*, 17 S. C., 45; *Annely v. DeSaussure*, 17 S. C., 389; *Jacobs v. Bush*, 17 S. C., 594; *Sutton v. Sutton*, 26 S. C., 34; 1 S. E., 19; *Annely v. DeSaussure*, 26 S. C., 497; 2 S. E., 490; *McCants v. McCants*, 51 S. C., 503; 29 S. E., 387; *McGee v. Hall*, 28 S. C., 562; 6 S. E., 566. Purchaser of remainder may compel partition with other tenants in common during lifetime of his life tenant.—*Lorick & Lowrance v. McCreary*, 20 S. C., 424; *Varn v. Varn*, 22 S. C., 77. Adult children cannot have partition of homestead assigned to widow, during her life.—*Yoe v. Harvey*, 25 S. C., 94. Partition ordered during lifetime of husband and wife between her and their children then living, where the title was in her and such children and those to be born.—*Mellichamp v. Mellichamp*, 28 S. C., 125; 5 S. E., 533. Defendant in partition claiming independent title, his claim must be first adjudicated.—*Brock v. Nelson*, 29 S. C., 49; 6 S. E., 899. Where the issue of title is sufficiently raised by the pleadings there is no necessity for the Court to frame an issue.—*Tyler v. Williams*, 53 S. C., 367; 31 S. E., 298; *Barnes v. Rodgers*, 54 S. C., 115; 31 S. E., 885; *Sumner v. Harrison*, 54 S. E., 353; 32 S. E., 572. Action for partition premature while two of the co-tenants hold possession under an unexpired lease.—*Cannon v. Lomax*, 29 S. C., 369; 7 S. E., 529. An agreement for partition signed by married women and their husbands and others in interest, enforceable.—*Smith v. Tanner*, 32 S. C., 259; 10 S. E., 1008. A grant by one tenant in common of a right of way gives right to grantee to have grantor's share laid off in severalty.—*R. R. Co. v. Leech*, 33 S. C., 175; 11 S. E., 631. A conveyance by one co-tenant does not operate to prejudice of other co-tenants.—*Young v. Edwards*, 33 S. C., 404; 11 S. E., 1066. Grantee of entire estate claiming from co-tenant.—*Garrett v. Weinberg*, 43 S. C., 36; 20 S. E., 756. Proceedings for partition and homestead at same time are inconsistent.—*Williams v. Mallory*, 33 S. C., 601; 11 S. E., 1068. See also *Geiger v. Geiger*, 57 S. C., 52; 35 S. E., 1032; *in re Worley's estate*, 49 S. C., 41; 26 S. E., 949. Partition of intestate's property should not be brought within the year after his death and without making administrator party.—*Williams v. Mallory*, 33 S. C., 601; 11 S. E., 1068. See also *Geiger v. Geiger*, 57 S. C., 52; 35 S. E., 1032; *in re Worley's estate*, 49 S. C., 41; 26 S. E., 949.

The right to partition is paramount to the right of a wife of a co-tenant to dower; hence, sale for partition will bar her right.—*Holley v. Glover*, 36 S. C., 404; 15 S. E., 605; 31 Am. St. Rep., 883; 16 L. R. A., 776; but where the land is divided in kind the wife's dower attaches to the portion assigned him or his allenee.—*Gaffney v. Jeffries*, 59 S. C., 565; 38 S. E., 216.

When non-suit will not be allowed.—*Gilreath v. Furman*, 57 S. C., 289; 35 S. E., 516.

Partition between tenants in common for life.—*Windham v. Howell*, 68 S. C., 478; 47 S. E., 715. Estates in entirety between husband and wife.—*Green v. Cannady*, 77 S. C., 193; 57 S. E., 832. Effect of commissioners' report—upsetting.—*Parrott v. Barrett*, 81 S. C., 260; *Aldrich v. Aldrich*, 75 S. C., 369; 55 S. E., 887.

Jurisdiction
of Common
Pleas.

Civ. '02, §
2487.

Sec. 3198. The Court of Common Pleas has jurisdiction in all cases to make partition in kind of real and personal estates held in joint tenancy or in common, or by allotment to one or more of the parties, upon their accounting to the

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other parties in interest for their respective shares; or in case partition in kind or by allotment cannot be fairly and impartially made, and without injury to any of the parties in interest, by the sale of the property and the division of the proceeds according to the rights of the parties.

Sale and division.

The Court of Equity had jurisdiction in partition independently of the Statute.—*Holley v. Glover*, 36 S. C., 404; 15 S. E., 605; *Charleston C. & C. R. R. Co. v. Leech*, 35 S. C., 146; 14 S. E., 730. Infant parties, fee conditional.—*Owings v. Hunt*, 53 S. C., 187; 31 S. E., 237; *Dupont v. DuBos*, 52 S. C., 244; 29 S. E., 665. No need to resort to equity for partition under the facts in *Latham v. Harby*, 50 S. C., 862; 27 S. E., 862. Complaint not alleging possession by plaintiff sustained.—*Garrett v. Weinberg*, 50 S. C., 310; 27 S. E., 770. As to allegation of ouster.—*Elmore v. Davis*, 49 S. C., 1; 26 S. E., 898.

When account between co-defendants can be ordered.—*Craig v. Craig*, Ball Eq., 102. Legislature cannot confer upon Probate Court jurisdiction in partition between adults.—*Davenport v. Caldwell*, 10 S. C., 317. But proceedings in partition in that Court prior to that case in November, 1878, are binding upon all parties.—*Herndon v. Moore*, 18 S. C., 339; *Schumpert v. Smith*, 18 S. C., 358; *Thomas v. Poole*, 19 S. C., 323; *Tederall v. Bouknight*, 25 S. C., 275. Whether Probate Court has concurrent jurisdiction in partition under wills, or where there are minors, not decided.—*Thomas v. Poole*, 19 S. C., 323. Judge holding Court in the Circuit, and while in the County where the land lies, has power to hear and determine a case of partition at chambers.—*Woodward v. Elliott*, 28 S. C., 368. Recovery of land and partition thereof should not be joined in one action.—*Westlake v. Farrow*, 34 S. C., 270; 13 S. E., 469.

An estate in trees may exist separate from the estate in the land and is the subject of partition. It is discretionary with the court whether they be sold together or not.—*Rivers v. A. C. Lumber Corp.*, 81 S. C., 492; 62 S. E., 855.

Sec. 3199. Writs of partition shall be issued and directed to five persons, two of whom shall be nominated by the plaintiff and two by the defendant, and a fifth by the officer issuing the same, and in cases when the defendant fails to appear or answer the plaintiff shall nominate three persons and the officer two, commanding them, or a majority of them, within one month thereafter (being first duly sworn for that purpose) fairly and impartially, according to the best of their judgment, to make partition of the premises described in the complaint among the parties entitled thereto, according to their several rights; and when the estate or property cannot, in the opinion of the Commissioners, be fairly and equally divided between the parties interested therein without manifest injury to them, or some one of them, then they shall make a special return of the whole property and the value thereof, truly appraised, and certify their opinion to the Court whether it will be most for the benefit of all parties to deliver over to one or more of the parties inter-

Writs of partition.

Commissioners.

Civ. '02, § 2438.

Oaths.

Duties.

Special return.

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Powers of
the Court to
vest in one or
more.

Or to order
sale.

vested therein the property which cannot be fairly divided, upon the payment of a sum of money to be assessed by the said Commissioners, or to sell the same at public auction, and the Court shall proceed to consider and determine the same; and if it shall appear to the Court that it will be for the benefit of all parties interested in the said estate or property that the same should be vested in one or more of the persons entitled to a portion of the same, on the payment of a sum of money assessed as aforesaid, the Court shall determine accordingly, and the said person or persons, on the payment of the consideration money, shall be vested with the estate so adjudged to such person or persons. But if it shall appear to the Court that it would be more for the interest of the parties interested in said estate or property that the same should be sold, and the proceeds of sale be divided among them, then the Court shall direct a sale to be made, on such terms as to the Court shall seem right.

Contents of writ and order.—*Barnes v. Rodgers*, 54 S. C., 115; 31 S. E. 885; *Trammell v. Trammell*, 57 S. C., 89; 35 S. E., 533; *Love v. Love*, 57 S. C., 580; 35 S. E., 398.

The return of a majority of the Commissioners sufficient.—*Yates v. Gridley*, 16 S. C., 496. Return of Commissioners in division of the land, unless clearly erroneous and unjust, will be confirmed by the Court.—*Greer v. Winds*, 4 DeS., 85; *Buckler v. Farrow*, Rich. Eq. Ca., 180. In absence of evidence it must be assumed that Commissioners acted impartially.—*Riley v. Gaines*, 14 S. C., 454. Interest allowed on money assessed for equality of partition.—*Craig v. Craig*, Ball. Eq., 99. In computing value of improvements, not their cost, but the value they have imparted to the premises, is allowed.—*Moore v. Williamson*, 10 Rich. Eq., 323; *Scalfe v. Thompson*, 15 S. C., 357. Such return, when confirmed, vests title from actual partition.—*Hudson v. Wallace*, 1 Rich. Eq., 1. Commissioners may make special return, vesting property in one or more of the parties, upon paying certain sum as its assessed value.—*Carnes v. White*, 1 Brev., 458; *Burnside v. Watkins*, 30 S. C., 459; 9 S. E., 518. Return need not fix the precise amount of this sum that each party is to receive, but order of confirmation should distribute it.—*Graydon v. Graydon*, McM. Eq., 63; *Commissioners v. Mobley*, 2 Speer, 654. It may recommend a credit to whom the land is allotted.—*Graydon v. Graydon*, McM. Eq., 63. The return of the Commissioners, if accepted, is the law between the parties as to equality of partition, and Court cannot otherwise determine it.—*Buckler v. Farrow*, Rich. Eq. Ca. 178. Such return, when confirmed, vests title only from payment of the money.—*Burriss v. Gooch*, 5 Rich., 1. When co-tenant has successfully mortgaged a specific part of the land, it should be allotted to him or sold so as to preserve rights of mortgagees, if other co-tenants not prejudiced.—*Kennedy v. Boykin*, 35 S. C., 61; 14 S. E., 809. If it appears to the Court that there is or will be a bid for a material advance in price above assessed by the Commissioners, it will direct a sale.—*Moore v. Williamson*, 10 Rich. Eq., 323. The rule of *caveat emptor* does not apply to sales under decree for partition.—*Bollivar v. Zeigler*, 9 S. C., 287; *McMichael v. McMichael*, 51 S. C., 555; 29 S. E., 403.

Parrott v. Barrett, 81 S. C., 260; *Aldrich v. Aldrich*, 75 S. C., 360; 53 S. E., 887; *Allen v. Allen*, 76 S. C., 499; 57 S. E., 549; *Bowen v. True*, 79 S. C., 394; 60 S. E., 943.

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Sec. 3200. Nothing in the preceding Section contained shall be construed to affect the power of the Court of Common Pleas to dispense with the issuing of such writ in cases where, in the judgment of the Court, it would involve unnecessary expense to issue the same; and the Court shall have power in all proceedings in partition, without recourse to the said writ, to determine, by means of testimony taken before the proper officer and reported to the Court, whether a partition in kind among the parties be practicable or expedient, and in cases where such partition cannot be fairly and equally made to order a sale of the property and a division of the proceeds according to the rights of the parties.

Court may dispense with writ and order sale, upon testimony taken.

Civ. '02, § 2439.

McCrary v. Jones, 36 S. C., 136; 15 S. E., 430.

Lien as to rents.—See Vaughn v. Lanford, 81 S. C., 282; 62 S. E., 316. Leinees and grantees of covenant necessary parties to partition proceedings.—*Ex parte* Union Mfg. & Power Co. *in re* Jeter v. Knight, 81 S. C., 265; 62 S. E., 259. Sale of entire tract, boundaries.—Foster v. Foster, 81 S. C., 307; 62 S. E., 320.

ARTICLE IV.

BETTERMENTS.

SEC.

3201. Purchaser or lessee entitled to recover full value of improvements in certain cases.

3202. Value of improvements, how determined.

3203. Proceedings to recover value of improvements.

3204. Judgment stayed until sale; special verdict; lien for betterments.

3205. Sale to be ordered, when; disbursements of proceeds; plaintiff may pay value of betterments within sixty days, &c.

SEC.

3206. Claim for betterments may be set up by answer.

3207. Value, how ascertained; judgment for same; lien of, on the land; execution confined thereto.

3208. Plaintiff to recover nothing for mesne profits, except on improvements made by him, &c.

3209. Forgoing provisions not applicable in certain cases.

Sec. 3201. After final judgment in an action to recover lands and tenements, in favor of the plaintiff, if the defendant has purchased the lands and tenements recovered in such action, or taken a lease thereof, or those under whom he holds have purchased a title to such lands and tenements, or taken a lease thereof, supposing at the time of such purchase such title to be good in fee, or such lease to con-

Tenants to be awarded full value for improvements in certain cases.

Civ. '02, § 2440.

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vey and secure the title and interest therein expressed, such defendant shall be entitled to recover of the plaintiff in such action the full value of all improvements made upon such land by such defendant, or those under whom he claims in the manner hereinafter provided.

This Act is not unconstitutional.—*Lumb v. Pinckney*, 21 S. C., 471. Section enforced.—*Jacobs v. Bush*, 17 S. C., 594; *Rabb v. Flenniken*, 32 S. C., 189; 10 S. E., 943. Where party supposed at time of purchase that he had a good title, he is entitled to improvements made after subsequent knowledge of title in another.—*Templeton v. Lowry*, 22 S. C., 389. Whether he so supposed, is a question of fact to be determined in the case.—*Id.* This Statute recognizes an equitable right and gives a remedy for its enforcement where none existed before.—*Tumbleston v. Rumph*, 43 S. C., 279; 21 S. E., 86; *Hall v. Boatwright*, 58 S. C., 544; 36 S. E., 1002. And it applies only to actions for recovery of land, and not to actions for partition between co-tenants, where equity affords a remedy for improvements to the common property.—*Id.*; *McGee v. Hall*, 28 S. C., 562; 6 S. E., 566. Applies only in actions for recovery of land, not in foreclosure suits.—*Lessly v. Bowie*, 27 S. C., 193; 3 S. E., 199. But parties in possession should not be allowed improvements and interest too during time of possession.—*Boykin v. Ancrum*, 28 S. C., 486; 6 S. E., 305.

It applies to improvements made by those under whom the plaintiff claims.—*Salinas v. Altman*, 45 S. C., 283; 22 S. E., 889. See also former hearing in same case: 41 S. C., 403; 19 S. E., 617; and *McKnight v. Cooper*, 27 S. C., 94; 2 S. E., 842. Such improvements must be made *bona fide*—*Gadsden v. Desportes*, 39 S. C., 131; 17 S. E., 706; and *Salinas v. Altman supra*.

Accounting as to betterments and rents between co-tenants.—*Vaughn v. Lanford*, 81 S. C., 282; 62 S. E., 316; *Shute v. Shute*, 82 S. C., 264; 64 S. E., 145.

Value of improvements:
how determined.

Civ. '02, §
2441.

Sec. 3202. The sum which such land shall be found at the time of the rendition of such judgment to be worth more, in consequence of improvements so made, than it would have been had no such improvements or betterments been made, shall be deemed to be the value of such improvements or betterments.

Proceedings
to recover
value of im-
provements.

Civ. '02, §
2442.

Sec. 3203. The defendant in such action shall, within forty-eight hours after such judgment, or during the term of the Court in which the same shall be rendered, file a complaint against such plaintiff for so much money as the lands and tenements are so made better, in the office of the Clerk of such Court, which shall be sufficient notice to the defendant in such complaint to appear and defend against the same; and all subsequent proceedings shall be had in accordance with the practice prescribed in the Code of Procedure.

"Final judgment," means the judgment in Circuit Court, even in cases of appeal, and it is too late to bring this action after remittitur of Supreme Court.—*Garrison v. Dougherty*, 18 S. C., 486. It does not mean entry of

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formal judgment, but final determination of rights of parties by verdict.—*Godfrey v. Fielding*, 21 S. C., 313. Defendant by answer claimed improvements, alleging only that he believed he had good title in fee at the time of his purchase, was allowed to amend by averring also a belief of good title at time the improvements were made.—*McKnight v. Cooper*, 27 S. C., 92; 2 S. E., 842.

Sec. 3204. The Court, on the entry of such action, shall stay all proceedings upon the judgment obtained in the prior action, except the recovery of such lands, until the sale of the lands recovered as hereinafter provided; and the final judgment shall be upon a special verdict by a jury, under the direction of the Court, stating the value of the lands and tenements without the improvements put thereon in good faith by the defendant, and the value thereof with improvements. The defendant in ejectment shall be entitled for said betterments to a verdict for the value thereof, as of the date when the said lands were recovered from him, and interest on said verdict from said date, and the lands and tenements so recovered shall be held to respond to said judgment for betterments in the same manner and for the same time as if the same had been attached on mesne process.

J u d g m e n t
stayed until
sale; special
verdict; lien
for better-
ments.

Civ. '02, §
2443.

Refusal to stay such judgment pending such action for improvements is a denial of substantial right and appealable.—*Dill v. Moore*. 14 S. C., 338.

Sec. 3205. When final judgment shall be rendered as provided in Section 3204, the Court shall direct a sale of the land recovered in ejectment on the following terms: That out of the proceeds of sale, the plaintiff in ejectment, or his legal representative, be paid the amount ascertained as the value of his land without improvements put thereon in good faith by the defendant, and the surplus, if any, be paid to the occupying claimant, or his legal representative, and said judgment for betterments shall be a lien on such land in preference to all other liens: *Provided, however,* That this Section shall not apply to cases where the plaintiff in ejectment, or his legal representative, shall, within sixty days after the aforesaid special verdict, pay into the office of the Clerk of the Court, for the defendant, the value of the betterments as so found in said special verdict.

Sale to be
ordered,
when; dis-
bursement of
proceeds;
plaintiff may
pay value of
betterments
within sixty
days, &c.

Civ. '02, §
2444.

Jacobs v. Bush, 17 S. C., 594.

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Value of im-
provement
may be alleg-
ed in answer.

Civ. '02, §
2445.

Sec. 3206. In any action hereafter brought, or now pending, and which has not been heard, for the recovery of lands and tenements, whether such action be denominated legal or equitable, the defendant who may have made improvements or betterments on such land, believing at the time he makes such improvements or betterments that his title thereto was good in fee, shall be allowed to set up in his answer a claim against the plaintiff for so much money as the land has been increased in value in consequence of the improvements so made.

This Section is merely supplemental to Section 3201, and includes improvements made by those under whom he claims.—*Salinas v. Altman*, 45 S. C., 288; 22 S. E., 889; *Gadsden v. Desportes*, 39 S. C., 131; 37 S. E., 706.

Jury or Judge
may assess
value.

Civ. '02, §
2446.

Charge on
the land.

But not to
be recovered
out of other
property.

Sec. 3207. If the verdict or decree shall be for the plaintiff in such action, the jury or Judge, who may render the same, may at the same time render a verdict or decree for the defendant for so much money as the lands and tenements are so made better, after deducting the amount of damages, if any, recovered by the plaintiff in such action, and the lands and tenements as recovered shall be held to respond to such judgment for the defendant: *Provided*, That execution on such judgment shall issue only against such lands and tenements so recovered by the plaintiff in such action, and shall not in any such case issue against the goods and chattels or other lands of the defendant.

Lien of judgment for improvements prevails over claim of homestead.—*Wilson v. Counts*, 52 S. C., 218; 29 S. E., 649.

Illegitimate
child may in-
herit from
mother.

1908, XXV,
156.

Mother may
inherit from
illegitimate
child.

Same rights
to prevail in
case of death
from wrong-
ful act of an-
other.

Sec. 3208. Any illegitimate child or children, whose mother shall die intestate, possessed of any real or personal property, shall be, so far as said property is concerned, an heir or heirs at law as to such property, notwithstanding any law or usage to the contrary.

Whenever any illegitimate child shall die in this State, leaving property, real or personal, the mother of such child shall have the same right to inherit from such child as she would have if said child had been legitimate.

In the event of death of such illegitimate child, or the mother of such illegitimate child, by the wrongful or negligent act of another, such illegitimate child, or the mother of such illegitimate child, shall have the same rights and remedies in regard to such wrongful or negligent act as

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though such illegitimate child had been born in lawful wedlock.

Croft v. Southern Cotton Oil Co., 83 S. C., 232; 65 S. E., 216.

Sec. 3209. The plaintiff, in an action for the recovery of lands and tenements, shall recover nothing for the mesne profits of the land, except on such improvements as are made by him or those under whom he claims.

No recovery for mesne profits.
Civ. '02, § 2447.

Sec. 3210. The foregoing provisions relating to betterments shall not extend to any person who has entered on land by virtue of any contract made with the legal owner of such land, unless it shall appear, on the trial of the action, that such owner has neglected to fulfil such contract of his part, in which case such person in possession shall be entitled to all the privileges hereinbefore provided for those who entered upon land under supposed title, and the same proceedings shall be had, and the land shall be held in the same manner as hereinbefore provided.

For foregoing provisions not applicable in certain cases.
Civ. '02, § 2448.

ARTICLE V.

MISCELLANEOUS PROVISIONS CONCERNING REAL ESTATE.

Sec.
3211. Liens on real estate of no force after twenty years; proviso.
3212. Measure of damages in actions upon covenant.
3213. Assessment of damages for trespass or waste; power of Judge.

Sec.
3214. Surveyors appointed for lands in dispute.
3215. If parties refuse, Court to nominate.
3216. Party walls in cities and towns.
3217. Each owner to pay half expense.

Section 3211. No mortgage, or deed having the effect of a mortgage, except mortgages or deeds of trust, covering the whole or any part of the real or personal property of a railroad company, no judgment, decree or other lien on real estate, shall constitute a lien upon any real estate after the lapse of twenty years from the date of the creation of the same: *Provided*, That if the holder of any such lien or liens, as aforesaid, shall, at any time during the continuance of such lien, cause to be recorded upon the record of such mortgage, or deed having the effect of a mortgage, or shall file with the record of such judgment, decree or other lien, a

Liens on real estate of no force after twenty years.
Civ. '02, § 2449, 1903, XXIV, § 88; 1904, XXIV, § 408.

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note of some payment on account, or some written acknowledgment of the debt secured thereby, with the date of such payment or acknowledgment, such mortgage, deed having the effect of a mortgage, judgment, decree or other lien, shall be, and continue to be, a lien for twenty years from the date of the record of any such payment on account or acknowledgment: *Provided, further*, That nothing herein contained shall be construed to affect the duration of the liens of judgments as prescribed by Section 309 of the Code of Procedure. *Provided, further*, That on and after the first day of January, 1902, the provisions of this Section shall apply to all mortgages, those executed prior to the 24th day of December, 1879, as well as to those executed since that date, except mortgages or deeds of trust covering the whole or any part of the real or personal property of a railroad company: *Provided, further*, That this Section shall not apply to mortgages securing coupon bonds or corporations.

Applies only to prior judgments—not to those recovered after its enactment, or after the Code.—*Henry v. Henry*, 31 S. C., 1. But this Statute prior to the amendment of 1898, was held not retroactive as to mortgages.—*Curtis v. Renneker*, 34 S. C., 468. Record of assignments of mortgages in compliance with requirements.—*Id.* What is sufficient acknowledgment of the debt.—*Wood v. Milling*, 32 S. C., 378; 10 S. E., 1081. As to payments.—*Patterson v. Baxley*, 33 S. C., 354; 11 S. E., 1065.

Joint cannot be renewed after twenty years from death of joint debtor where barred by Statute of Limitations.—*Brantley v. Bittle*, 72 S. C., 179; 51 S. E., 561. Declares rule of evidence to rebut presumption of payment.—*Lyles v. Lyles*, 71 S. C., 391; 51 S. E., 113. Does it refer to charge of legacy on lands devised? If so, it is not retroactive.—*Dixon v. Roessler*, 76 S. C., 415; 57 S. E., 203.

Coleman v. Coleman, 74 S. C., 567; 54 S. E., 758; *Gregory v. Perry*, 71 S. C., 246; 50 S. E., 787; *Montague v. Preister*, 82 S. C., 492; 64 S. E., 393.

Measure of damages in actions upon covenant.

Civ. '02, § 2450.

Sec. 3212. In any action or suit for reimbursements or damages upon covenant or otherwise, the true measure of damages shall be the amount of the purchase money at the time of alienation, with legal interest from the time of eviction.

Formerly the interest ran from time of purchase.—*Furman v. Elmore*, 2 N. & McC., 189; *Ware v. Weatherall*, 2 McC., 413; *Lowrance v. Robertson*, 10 S. C., 8. The alienation referred to is the alienation by the warrantor.—*Lowrance v. Robertson*, 10 S. C., 8; *Murdoch v. Tuten*, 76 S. C., 502; 57 S. E., 547.

Assessment of damages for trespass or waste; power of Judge.

Civ. '02, § 2451.

Sec. 3213. In case any action shall be brought for a trespass or waste committed in the plaintiff's lands or tenements, the Judge of the Court having jurisdiction of such action shall have power to appoint one or more sufficient

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persons to view the said trespass or waste, if need be, who shall return an account thereof, on oath, at the next Court, and the true value of the damages occasioned by such trespass or waste, and the same shall be allowed as evidence, if the Court shall see fit; any law, custom or usage to the contrary thereof in any wise notwithstanding.

Sec. 3214. If any cause be depending in the Circuit Courts, or within the jurisdiction of the same, wherein the titles or boundaries of lands or plantations shall be brought into dispute, the Judge of the said Court shall appoint surveyors, at the nomination of the parties, to survey the same, at the charge of the said parties, and to return such survey, on oath, at the next sitting of the said Court.

Surveyors
appointed for
land in dis-
pute.

Civ. '02, §
2452.

Section not imperative except when survey necessary.—*Fran v. Cruikshanks*, 3 McC., 84. When necessary.—*Thomas v. Jeter*, 1 Hill, 380; *Scriven v. Heyward*, Chev., 119; *Speer v. Duvall*, 5 Rich., 13; *State v. Sarter*, 2 Strob., 60; *Manning v. Dove*, 10 Rich., 395; *Patterson v. Crenshaw*, 32 S. C., 534; 11 S. E., 390. If necessary trial must be postponed for it.—*Gourdine v. Theus*, 2 Brev., 35. Notice to other party of survey under this Section necessary.—*Underwood v. Evans*, 2 Bay, 437. Not necessary, when.—*Keenan v. Keenan*, 7 Rich., 345; *Manning v. Dove*, 10 Rich., 395. Surveyor compelled to attend only first trial, unless subpoenaed.—*Nicklin v. Morrow*, 3 Brev., 405; *Breithaupt v. Clarke*, 1 Hill, 399. He must as witness verify his plat.—*Davis v. Winsmith*, 5 S. C., 332. As to general rules of surveying.—*Colclough v. Richardson*, 1 McC., 167; *Welch v. Phillips*, 1 McC., 215; *Nelson v. Frierson*, 1 McC., 232; *Stokes v. Holliday*, 1 McC., 255; *Bond v. Quattlebaum*, 1 McC., 584; *Martin v. Simpson*, Harp., 454; *Atkinson v. Anderson*, 3 McC., 223; *Sumter v. Bracy*, 2 Bay, 515; *Douglas v. Fernandez*, 2 Bail., 78; *Wash v. Holmes*, 1 Hill, 12; *Kershaw v. Starnes*, 1 McM., 74; *Breithaupt v. Clarke*, 1 Hill, 399; *Kershaw v. Starnes*, 1 McM., 73; *Davis v. Winsmith*, 5 S. C., 332. Objection to survey, when to be made.—*Barmore v. Jay*, 2 McC., 371. As to costs of survey.—*Lesly v. Buford*, 1 Brev., 460; *Sturgenegger v. Marsh*, 1 Bail., 592; *Kershaw v. Starnes*, 1 McM., 73. To what cases Section not applicable.—*Speer v. Duval*, 5 Rich., 13.

McCreery Co. v. Myers, 70 S. C., 282; 49 S. E., 848.

If parties
refuse, Court
to nominate.

Civ. '02, §
2453.

Sec. 3215. In case either of the parties shall refuse to nominate a surveyor duly sworn and qualified, then the said Court shall proceed to nominate two or more such surveyors, as they shall think fit, in order for the better finding out and discovering the truth of the matter in difference; and if the Court shall acquiesce in the return of the surveyors so given in on oath, as aforesaid, the same shall be allowed as evidence.

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Party walls
in cities and
towns.

Civ. '02,
2454.

Sec. 3216. Every person who shall erect in a city or town any building with brick shall have liberty to set half his partition wall in his next neighbor's ground, provided he leave a tothing in the corner of such wall for his neighbor to adjoin unto.

Each owner
to pay half
expense.

Civ. '02,
2455.

Sec. 3217. When the owner of such adjoining land shall build, he shall pay for one-half of the said partition wall, so far as he makes use of the same.

TITLE II.

CHAPTER LXV.

Of the Registration of Legal Instruments.

18. What instruments to be recorded; when; where; effect of, &c.	Sec. 3222. Memorandum of livery of seizin to be recorded.
19. Possession not notice; actual notice must be notice of the instrument, &c.	3223. Former mortgages may be redeemed, by second mortgages.
20. Certain conveyances not endorsed by Auditor declared valid.	3224. Dower saved where widow did not legally renounce.
21. Deeds, &c., to married women recorded in office of Register of Mesne Conveyances, but not in Secretary of State's office declared valid.	3225. United States Tax Commissioner's titles to be recorded in Beaufort.

Section 3218. All deeds of conveyance of lands, tenements or hereditaments, either in fee simple or for life; all bills of trusts or instruments in writing, conveying either real or personal estate, and creating a trust or trusts in relation to such property, or charging or encumbering the same; all mortgages or instruments in writing in the nature of a mortgage of any property, real or personal; all marriages or settlements or instruments in the nature of a settlement of marriage; all leases or contracts in writing made between landlord and tenant for a longer period than twelve months; all statutory liens on buildings and lands for materials or labor furnished on them; all statutory liens on ships and vessels; all certificates of renunciation of dower; and generally, all instruments in writing now required by law to be recorded in the office of Register of Mesne Conveyances or Clerk of Court in those Counties where the office of Register of Mesne Conveyances has been abolished, shall, after the first day of May in the year of our Lord, one thousand nine hundred and nine, shall be valid, so as to take effect from the time of such delivery or execution the

What instruments are to be recorded; when, where and effect of.

Civ. '02, § 2358. 1909, XXVI, 190.

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rights of subsequent creditors (whether lien creditors or simple contract creditors) or purchasers for valuable consideration without notice, only when recorded within ten days from the time of such delivery or execution in the office of the Register of Mesne Conveyance or Clerk of Court of the County where the property affected thereby is situated, in the case of real estate; and in the case of personal property of the County where the owner of said property resides, if he resides within the State, or if he resides without the State, of the County where such personal property is situated at the time of the delivery or execution of said deed or instruments: *Provided, nevertheless*, That the recording and record of the above mentioned deeds or instruments of writing subsequent to the expiration of said ten days shall, from the date of such record, operate as notice to all who may subsequently thereto become creditors or purchasers.

Who are subsequent creditors within the meaning of the Act prior to the amendment of 1898.—*King v. Fraser*, 23 S. C., 543; *Carraway v. Carraway*, 27 S. C., 576; 5 S. E., 157; *Armstrong v. Carwile*, 56 S. C., 463; 35 S. E. 200.

As to deeds.—*Righton v. Righton*, 1 Mill, 130; *Harrison v. Hiller*, 2 N. & McC., 578; *Barnwell v. Porteous*, 2 Hill Ch., 219; *Cooper v. Day*, 1 Rich. Eq., 26; *Steele v. Mansel*, 6 Rich., 437; *Godbold v. Lambert*, 8 Rich. Eq., 155; *Bassard v. White*, 9 Rich. Eq., 483; *Lott v. DeGraffenreid*, 10 Rich. Eq., 346; *Leger v. Doyle*, 11 Rich., 118; *Belk v. Massey*, 11 Rich., 614; *Youngblood v. Keadle*, 1 Strob., 121; *Evans v. McLucas*, 15 S. C., 67; *McNamee v. Huckabee*, 20 S. C., 190; *Summers v. Brice*, 36 S. C., 204; 15 S. E., 374; *Levi v. Gardner*, 53 S. C., 24; 30 S. E., 617. As to marriage settlements. Settlement upon married woman by Court need not be recorded as marriage settlements.—*McMeekin v. Edmunds*, 1 Hill Chan., 288. Nor need settlement upon her by husband after marriage for present consideration be recorded as such.—*Bank v. Brown*, 2 Hill Ch., 558. Only settlements in consideration of marriage and before, or in pursuance of agreement made before, are required to be recorded as such.—*Bank v. Brown*, 2 Hill Ch., 558; *Napier v. Wightman*, Speer Eq., 357; *LePrince v. Guillemont*, 1 Rich. Eq., 187; *Amak v. New*, 33 S. C., 28; 11 S. E., 386; *Trustees v. Bryson*, 34 S. C., 401; 13 S. E., 619. Mere executory agreement is not marriage settlement.—*Baskins v. Giles*, Rich. Eq., 315. Marriage settlements unrecorded, void as to creditors concerned.—*Henlon v. McCall*, Harp Eq., 170; *LaBorde v. Penn. M. M. Eq.*, 448; *Fowke v. Woodward*, Speer Eq., 233; *Brock v. Bowman*, Rich. Eq. Ca., 185; *Harper v. Barsh*, 10 Rich. Eq., 150; *Barsh v. Rials*, 6 Rich., 162. As to mortgages.—*Ash v. Executor*, 1 Bay, 304; *Ashe v. Livingston*, 2 Bay, 80; *Brallsford v. House*, 1 N. & McC., 31; *Ex parte Leland*, 1 N. & McC., 460; *Hampton v. Levy*, 1 McC. Ch., 107; *Thayer v. Cramer*, 1 McC. Ch., 395; *Nixon v. Bynum*, 1 Bail., 148; *Martin v. Sale*, 1 Bail. Eq., 1; *Thayer v. Davidson*, Bail. Eq., 412; *Smith v. Osborne*, 1 Hill Ch., 340; *Barnwell v. Porteous*, 2 Hill Ch., 219; *Schultz v. Carter*, Speer Eq., 553; *Barr v. Kinnard*, 3 Strob., 73; *Ryan v. Clanton*, 3 Strob., 412; *Boyce v. Boyce*, 6 Rich. Eq., 302; *Bryce v. Bowers*, 11 Rich. Eq., 41; *McKnight v. Gordon*, 13 Rich. Eq., 222; *Williams v. Beard*, 1 S. C., 309; *Miles v. King*, 5 S. C., 146; *Harnesworth v. Bischoff*, 6 S. C., 159; *Annely v. DeSaussure*, 12 S. C., 488; *McKnight v. Gordon*, 13 Rich. Eq., 222; *Sternberger v. McSween*, 14 S. C., 35; *King v. Fraser*, 23 S. C., 543; *Blohme v. Lynch*, 26 S. C., 300; 2 S. E., 136; *Loan and*

Trust Co. v. McPherson, 26 S. C., 431; 2 S. E., 267; McGowan v. Reid, 27 S. C., 262; 3 S. E., 337; Carraway v. Carraway, 27 S. C., 576; Gregory v. Ducker, 31 S. C., 141; 9 S. E., 780; London v. Youmans, 31 S. C., 147; 9 S. E., 775; Avery v. Wilson, 47 S. C., 78; 25 S. E., 286; Bredenberg v. Lantrum, 32 S. C., 215; 10 S. E., 956; Mowry v. Crocker, 33 S. C., 436; 12 S. E., 1; Summers v. Brice, 36 S. C., 204; 15 S. E., 374; Norwood v. Norwood, 33 S. C., 331; 15 S. E., 382. Turpin v. Suddath, 53 S. C., 295; 31 S. E., 245; VanDivlere v. Mitchell, 45 S. C., 127; 22 S. E., 759. Instrument in nature of a mortgage, what is not.—Arthur v. Screven, 39 S. C., 77; 17 S. E., 640. Except as to subsequent purchasers from some vendor or as to subsequent reditors, a deed is not affected by not being recorded.—Martin v. Quattleaum, 3 McC., 205; Martin v. Sale, Bail. Eq., 1; Summers v. Brice, 36 S. C., 204; 15 S. E., 374. Only as to such parties is a mortgage so affected.—Youngblood v. Keadle, 1 Strob., 121; McKnight v. Gordon, 13 Rich. Eq., 22; Williams v. Beard, 1 S. C., 309; Zorn v. R. R. Co., 5 S. C., 90; Summers v. Brice, 36 S. E., 204; 15 S. E., 374. But a purchaser for value without notice from purchaser in possession with notice is protected against unrecorded chattel mortgage.—London v. Youmans, 31 S. C., 147; 9 S. E., 775. Generally.—This Act of 1876 applies only to instruments subsequently executed.—Bloom v. Simms, 27 S. C., 90; 3 S. E., 45. Mortgage not recorded in time under Act of 1843, void as to purchaser subsequent to its record.—*Id.* connection with mechanic's lien.—Murphy v. Valk, 30 S. C., 268; 9 S. E., 1.

Record a nullity in County other than that in which the land is situate.—*Id.* v. Ward, 79 S. C., 573; 61 S. E., 108; or where deed was not properly obtained, Watts v. Whetstone, 79 S. C., 357; 60 S. E., 703; Woolfork v. Graniteville Mfg. Co., 22 S. C., 332. Notice under the recording Act is a legal issue.—Armour v. Ross, 75 S. C., 201; 55 S. E., 315; Charleston L. Co. v. Collins, 79 S. C., 383; 60 S. E., 944. Innocent purchaser without notice.—Williams v. Jones, 74 S. C., 258; 54 S. E., 558. Failure to record chattel mortgage.—Simpson v. Harley, 74 S. C., 368; 54 S. E., 658. Constructive notice—change of name.—Brayton v. Beall, 73 S. C., 308; 53 S. E., 1. Distinguished.—Armour v. Ross, 78 S. C., 294, 300, 301; 58 S. E., 1, 1135. Record of mortgage—notice to purchasers.—Francis v. Francis, 75 S. C., 178; 58 S. E., 804. Record of mortgage and assignment effect as notice.—*Ex parte* Anderson, in *re* Wagener v. Brown, 82 S. C., 131; 63 S. E., 354. Imperfect indexing of deed does not impair rights of those holding under it.—Mitchell v. Cleveland, 76 S. C., 432; 57 S. E., 33; Armstrong v. Austin, 45 S. C., 69; Association v. Childs, 67 S. C., 217. Recording chattel mortgage—Sec. 2655—distinguished.—Armour v. Ross, 75 S. C., 294; 58 S. E., 941, 1135. When record of mortgage is not notice of terms of bond.—Equitable B. & L. Association v. Corley, 72 S. C., 404; 52 S. E., 48; *Id.* v. Wroten, 82 S. C., 97; 63 S. E., 62, 449.

Sec. 3219. No possession of real property described in an instrument of writing required by law to be recorded shall operate as notice of such instrument; and actual notice shall be deemed and held sufficient to supply the place of registration only when such notice is of the instrument or of its nature and purport.

Possession not notice where instrument is not recorded.

1902, § 2457.

Generally, as to notice to supply lack of registration.—Tart v. Crawford, 26 S. C., 265; *Id.*, 1 McC., 479; Glvens v. Branford, 2 McC., 152; Cabiness v. *Id.*, 2 McC., 273; McFall v. Sherrard, Harp., 295; Anderson v. Harris, 11 S. C., 315; Kottman v. Ayer, 1 Strob., 552; Martin v. Sale, Bail. Eq., 1; Council v. Page, Speer Eq., 159; Fowke v. Woodward, Speer Eq., 233; *Id.* v. Day, 1 Rich. Eq., 26; Wallace v. Cooker, 3 Strob., 266; Ingram v. *Id.*, 3 Strob., 565; Cape Fear Steamboat Co. v. Conner, 3 Rich. 335; *Id.* v. Geiger, 4 Rich., 32; Anderson v. Aiken, 11 Rich. Eq., 232; Aultman

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v. Utsey, 34 S. C., 559; 13 S. E., 848. And possession was considered, before this Section, as such notice, not only of equity.—Sheorn v. Robinson, 2 S. C., 32; Bleman v. White, 23 S. C., 490; Graham v. Nesmith, 24 S. C., 285; Sweatman v. Edmunds, 28 S. C., 58; 5 S. E., 165; but also of unrecorded deed.—Daniel v. Hester, 29 S. C., 147; 7 S. E., 65.

Notice to agent of corporation.—Wardlaw v. Oil Mill, 74 S. C., 368; 4 S. E., 658. Notice that absolute deed was intended as a mortgage.—Mazgault v. Lofton, 78 S. C., 499; 59 S. E., 534. Unrecorded deed by remainderman to grantee in possession.—*Ex parte* City of Anderson, in re Wagner v. Brown, 82 S. C., 131; 62 S. E., 513; 63 S. E., 354. Possession not notice.—Foster v. Bailey, 82 S. C., 378; 64 S. E., 423.

Certain conveyances not endorsed by Auditor declared valid.

Civ. '02, § 2458.

Sec. 3220. All conveyances of real estate which have been recorded by the Clerk of Court and Register of Mesne Conveyances of the several Counties since the fourteenth day of December, 1876, and prior to the first day of May, 1882, without the endorsement of the Auditor of the County, are hereby declared to be as valid and binding, to all intents and purposes, as if the said conveyances had been endorsed by the Auditor of the County, as required by law; and each and every Clerk of the Court and Register of Mesne Conveyances is hereby relieved from all liability or penalty for the recording of such conveyances without the endorsement of the County Auditors thereon.

McNamee v. Huckabee, 20 S. C., 201.

Deeds, &c., to married women, recorded in office of Register of Mesne Conveyances, but not in Secretary of State's office, declared valid.

Civ. '02, § 2459.

Sec. 3221. All deeds and conveyances made since the sixteenth day of April, 1868, whereby lands and tenements which were the estate of their husbands have been conveyed to married women, and which have been duly recorded in the office of the Register of Mesne Conveyances, Clerk of Court for the County in which such lands and tenements are situate, shall be deemed good and effectual in the law, to all intents and purposes, as if the same had been recorded in the office of the Secretary of State within the time prescribed by law, anything in said Acts to the contrary thereof in any wise notwithstanding.

Memorandum of livery of seizin to be recorded.

Civ. '02, § 2460.

Sec. 3222. When any deeds or conveyances shall be acknowledged or proved, as aforesaid, in order to their being recorded, the memorandum of livery and seizin thereupon made in deeds of feoffment shall in like manner be acknowledged or proved, and shall be recorded with the deeds, and such memorandum, proved and acknowledged as aforesaid, shall be taken and deemed a sufficient livery and seizin of the land or other real estate conveyed.

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Sec. 3223. If it so happen there be more than one mortgage at the same time, by any person or persons to any person or persons, of the same lands and tenements, the several mortgagees which have not registered or recorded their mortgages, their heirs, executors, administrators or assigns, shall have power to redeem any former mortgage or mortgages registered upon payment of the principal debt, interest and cost of suit, to prior mortgagee or mortgagees, their heirs, executors, administrators or assigns.

Former mortgages may be redeemed by second mortgages.

Civ. '02, § 2461.

Sec. 3224. Nothing in this Chapter contained shall be construed, deemed or extended to bar any widow of any mortgagor of any lands or tenements from her dowry and right in or to the said lands who did not legally join with her husband in such mortgage, or otherwise bar or exclude herself from such dowry or right.

Dower saved where widow did not legally renounce.

Civ. '02, § 2462.

Sec. 3225. The holders of all certificates or titles issued or under the authority of the United States Direct Tax Commissioners for South Carolina shall be allowed to record the same in the office of the Clerk of Court for the County of Beaufort; and when such certificates shall have been so recorded, such recording shall be deemed to be a legal notice of title to the land described in the same.

United States Tax Commissioners' titles to be recorded in Beaufort.

Civ. '02, § 2463.

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TITLE III.

CHAPTER LXVI.

Limitation of Estates.

SEC.

3226. Words in deeds or wills importing an indefinite failure of issue; how construed.

3227. Feoffment with livery of seizin not to defeat remainders.

SEC.

3228. Posthumous children take under will or settlement as though born in lifetime of father.

Construction of terms.
"Failure of issue."

Civ. '02, §
2464.

Section 3226. Whenever, in any deed or other instrument in writing, not testamentary, hereafter executed, or in any will of a testator hereafter dying, an estate, either in real or personal property, shall be limited to take effect on the death of any person without heirs of the body, or issue, or issue of the body, or other equivalent words, such words shall not be construed to mean an indefinite failure of issue, but a failure at the time of the death of such person.

Applies only to instruments taking effect since its date.—*Blum v. Evans*, 10 S. C., 56; *Graham v. Moore*, 13 S. C., 115; *Mendenhall v. Mower*, 16 S. C., 303; *Powers v. Bulwinkle*, 33 S. C., 293; 11 S. E., 971; *Selman v. Robertson*, 46 S. C., 262; 24 S. E., 187; *Bradford v. Griffin*, 40 S. C., 46; 19 S. E., 76. This does not abolish rule in *Shelly's case*.—*Fields v. Watson*, 23 S. C., 50; *Bethea v. Bethea*, 48 S. C., 440; 26 S. E., 716.

Applied.—*Harkey v. Neville*, 70 S. C., 125; 49 S. E., 218; *Mattison v. Mattison*, 65 S. C., 345; 43 S. E., 874.

Feoffment with livery of seizin not to defeat remainder.

Civ. '02, §
2465.

Sec. 3227. No estate in remainder, whether vested or contingent, shall be defeated by any deed of feoffment with livery of seizin.

Referred to.—*Bowers v. Humphries*, 24 S. C., 452.

Cited *C. & W. C. Ry. v. Reynolds*, 69 S. C., 481; 48 S. E., 476; *McCreery v. Coggeshall*, 74 S. C., 42; 53 S. E., 978; *Bank v. Garlington*, 54 S. C., 413; 32 S. E., 513; *Young v. McNeill*, 68 S. C., 143. As to effect of deed in ordinary form, see *Young v. McNeill*, 68 S. C., 152. Deed of minor infant contingent remainderman may be vacated after vesting of interest after majority.—*Steele v. Poe*, 79 S. C., 407; 60 S. E., 951. Parties contingent remainderman.—*Hunt v. Gower*, 80 S. C., 80; 61 S. E., 218.

Posthumous child takes under will or settlement as though born in lifetime of father.

Civ. '02, §
2466.

Sec. 3228. A posthumous child shall take under any will or settlement as though born in the lifetime of the father, and shall not be liable to be defeated on the ground that the remainder was contingent and did not vest at the instant that the prior estate terminated, and that there was no trustee to preserve the contingent remainder.

Burke v. Wilder, 1 McC., 551.

TITLE IV.

CHAPTER LXVII.

Of Intestates' Estates.

Sec.	Sec.
3229. Right of primogeniture abolished.	blood, and a child of a brother or sister of the whole blood; when no brother or sister of half blood.
3230. Distribution of property—	5. When intestate leaves no child or other lineal descendant, father, mother, brother or sister.
1. When intestate leaves a widow and children; lineal descendants of the intestate represents their parents.	6. When widow takes two-thirds.
2. When intestate leaves no child, but a widow, father or mother, brother or sisters of the whole blood; children of brothers or sisters of the whole blood represent their parents; when intestate leaves no parent, but widow and, brothers and sisters, &c.; when intestate leaves a widow and father or mother, and no brothers and sisters, &c.	7. If intestate leaves no widow.
3. When intestate does not leave lineal descendant, father, or mother, but leaves widow and brothers and sisters, or brother or sister, of the whole blood, widow takes one moiety.	8. If intestate be a married woman.
4. When intestate leaves no child or other lineal descendant, father, mother, brother or sister of the whole blood, but leaves widow and brother or sister of half	9. If intestate leave no husband.
	10. When widow or husband shall inherit the whole estate.
	3231. Aliens may inherit as natural born citizens.
	3232. Alien widows.
	3233. Property to be equally divided; portions advanced by intestate to be deducted.
	3234. Property not mentioned in will.
	3235. Distribution of a joint tenancy.
	3236. Provisions for widows of intestates to be in lieu of dower.

Section 3229. The right of primogeniture is abolished. Right of primogeniture abolished.
The effect of this Statute on the definition of the word "heirs."—*Dukes v. Silk*, 37 S. C., 255; 16 S. E., 122. Applies to property acquired before passage of Act by intestate who dies afterwards.—*Ramsey v. Deas*, 2 DeS., 2467. Civ. '02, § 2467.

Mutledge v. Turner, 69 S. C., 400; 48 S. E., 297; *Childs v. Bolton*, 69 S. 555; 48 S. E., 618.

Sec. 3230. When any person shall die without disposing of the same by will, his estate, real and personal, shall be distributed in the following manner: Distribution of property.
Civ. '02, § 2468.

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Terms imperative.—Gaffney v. Peeler, 21 S. C., 55; Youngblood v. Norton, 1 Strob. Eq., 122.

Homestead does not affect will.—Sloan v. Hunter, 65 S. C., 235; 43 S. L. 788.

1. When intestate leaves a widow and children; lineal descendants of the intestate represent their parents.

1. If the intestate shall leave a widow and one or more children, the widow shall take one-third of the estate, and the remainder shall be divided between the children, if more than one; but if only one, the remainder shall be vested in that one absolutely forever.

The lineal descendants of the estate shall represent their respective parents, and shall take among them the share or shares to which their parents would have been entitled had such parent survived the intestate.

A child born alive after death of intestate is entitled to inherit.—Pearson v. Carlton, 18 S. C., 47. Grandchildren whose father died in lifetime of intestate take his share.—McClure v. Steele, 14 Rich. Eq., 105. Great grandchildren take *per stirpes*.—Payne v. Harris, 3 Strob., 39.

2. When intestate leaves no child, but a widow, father, or mother, brothers or sisters of the whole blood, children of brothers and sisters of the whole blood represent their parent; when intestate leaves no parent, but widow, and brothers and sisters, &c.; when intestate leaves a widow and father or mother, and no brothers and sisters, &c.

2. If the intestate shall leave no child or other lineal descendant, but shall leave a widow, and a father or mother, and brothers and sisters, or brother or sister, of the whole blood, the estate, real and personal, of such intestate shall be distributed in the following manner, that is to say: the widow shall be entitled to one moiety thereof, and the other moiety shall be equally divided amongst the father, or, if he be dead, the mother and the brethren of the whole blood; so that such father or mother, as the case may be, and each brother and sister, shall receive an equal share thereof. The children of a deceased brother or sister of the whole blood to take among them the share which their parent would have been entitled to had such parent survived the intestate: *Provided*, That there be no representation admitted among collaterals after brothers' and sisters' children.

Grandchild of deceased brother or sister does not take in right of representation.—Poang v. Gadsden, 2 Bay, 293. Nor does child of deceased nephew.—North v. Valk, Dud. Eq., 212. Nephews and nieces take *per stirpes*.—Stent v. McLeod, as Ex'ors., 2 McC. Eq., 354. Amendment by Act 1851: XII., 80; O'Neale v. Dunlap, 11 Rich., 405.

If the intestate leave no father or mother, the provision made in this subdivision for such parent shall go as the rest of the estate is directed to be distributed therein.

If the intestate shall not leave a child or other lineal descendant, or brothers or sisters, one or more of the whole blood, or the children of a brother or sister of the whole

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blood, but shall leave a widow and a father or mother, the widow of the intestate shall be entitled to one moiety of the estate, and the father, or if he be dead, the mother, to the other moiety.

Trapp v. Billings, 2 McC. Eq., 403.

3. If the intestate shall not leave a lineal descendant, father, or mother, but shall leave a widow and brothers and sisters, or brother or sister of the whole blood, the widow shall be entitled to one moiety of the estate, and the brothers and sisters, or brother or sister, to the other moiety as tenants in common. The children of a deceased brother or sister shall take among them respectively the share which their respective ancestors would have been entitled to had they survived the intestate.

3. When intestate does not leave lineal descendant, father or mother, but leaves widow, and brothers and sisters, or brother or sister of the whole blood, widow takes one moiety. 1791, V., 163.

4. If the intestate shall leave no child or other lineal descendant, father, mother, brother or sister of the whole blood, but shall leave a widow and a brother or sister of the half blood, and a child or children of a brother or sister of the whole blood, the widow shall take one moiety of the estate, and the other moiety shall be equally divided between the brothers and sisters of the half blood, and the children of the brothers and sisters of the whole blood, the children of every deceased brother and sister of the whole blood taking among them a share equal to the share of a brother or sister of the half blood. If there be no brother or sister of the half blood, then a moiety of the estate shall descend to the child or children of the deceased brother or sister of the whole blood, taking by representation of the parent, and if there be no child of a brother or sister of the whole blood, then said moiety shall descend to the brothers and sisters of the half blood.

4. When intestate leaves no child or other lineal descendant, father, mother, brother, or sister of the whole blood, but leaves widow, and brother or sister of half blood, and a child of a brother or sister of the whole blood; when no brother or sister of half blood. Ib., 162, § 1.

Brothers and sisters of half blood do not take when there are those of whole blood.—Wren v. Carnes, 4 DeS., 403; Hagermeyer v. City Council, Riley Ch., 10 Rich. 1. Nor when intestate left a mother.—Lawson v. Perdriau, 1 McC., 456. Brothers and sisters of the half blood and children of predeceased brothers and sisters of the whole blood do not take equally; each of the former take an equal share, and each set of such children a like share, among them.—Felder v. Felder, 5 Rich. Eq., 509. Brother of half blood excludes children of deceased brother of half blood.—Ex parte Mays, 2 Rich., 61.

If the intestate shall leave no child, or other lineal descendant, father, mother, brother or sister of the whole blood, or their children, or brother or sister of the half blood,

5. When intestate leaves no child or other lineal descendant, father, mother, brother, or sister. 1791, V., 163.

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6. When widow takes two-thirds.

then the widow shall take one moiety, and the lineal ancestor, if any there be, the other moiety.

6. If the intestate shall leave no child or other lineal descendant, father, mother, brother or sister of the whole blood, nor child of such brother or sister of the whole blood nor brother or sister of the half blood, or lineal ancestor, the widow shall take two-thirds of the estate, and the remainder shall descend to the next of kin.

In reckoning the degrees of kindred, the computation shall begin with the intestate and be continued up to the common ancestor, and then down to the person claiming kindred inclusively, each step inclusively being reckoned as a degree.

Maternal aunt inherits before children of paternal uncle.—*Shaffer v. Nall*, 2 Brev., 160; *Gilbert v. Hendrix*, 2 Brev., 161. Uncle and aunt of half blood exclude first cousins of whole blood.—*Karwon v. Lowndes*, 2 DeS., 216; *Perry v. Logan*, 5 Rich. Eq., 202. Kin in the fifth degree exclude those of sixth degree.—*Witsell v. Linder*, 3 DeS., 481. First cousins of the whole and half blood are equal kin and share alike.—*Edwards v. Barksdale*, 2 Hill Ch., 416. Generally, the half blood, except where otherwise specially provided, takes with the whole blood in the same degree.—*Edwards v. Barksdale*, 81 Ky. Eq., 16.

7. If intestate leaves no widow.

10.

7. If the intestate shall leave no widow, the provision made for her shall go as the rest of the estate is directed to be distributed in the respective clauses in which the widow is provided for.

8. If intestate be a married woman.

1885, XIX., 45.

8. On the death of a married woman intestate, the husband shall be entitled to the same share of her estate as is herein given to the widow out of the estate of the husband, and the remainder of her estate shall be distributed among her descendants and relations in the same manner as is directed in case of the intestacy of a married man.

Matheney v. Guess, 2 Hill Ch., 63.

9. If intestate leave no husband.

1826, VI., 285.

9. If the intestate leave no husband, the provision herein made for him shall go as the rest of the estate is directed to be distributed in the preceding clauses.

10. When widow or husband shall inherit the whole estate.

10. If any married person shall die without leaving any child or other lineal descendant, father, mother, brother or sister of the whole blood, or their children, or brother or sister of the half blood, or lineal ancestor, or next of kin, then the wife shall inherit from the husband, and the husband from the wife, the whole of the real and personal estate

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of which the other died seized or possessed, was interested in or entitled unto.

Persons by force of this Statute.—*North v. Valk*, *Dudley Eq.*, 212. Rights of posthumous children.—*Pearson v. Charlton*, 18 S. C., 47. Discharge of distributee in bankruptcy. Effect on claim of estate against him.—*Wilson v. Wiley*, 16 S. C., 216. Generally as to Act 1791, Section 2868.—Rights under, do not vest in possession immediately upon death of intestate; but in interest only.—*Speight v. Melgs*, 1 Brev., 486; *Rabb v. Aiken*, 2 McC. Ch., 118. It is then fixed.—*Teague v. Dendy*, 2 McC. Ch., 207. It did not make any change of the law as to bastards.—*Barwick v. Gale*, 4 DeS., 434. It abolished courtesy of husband in fee simple estate of wife.—*Gray v. Glivens*, 1 Hill., 511; *Withers v. Jenkins*, 14 S. C., 597; *Gaffney v. Peeler*, 21 S. C., 55. It is not in her fee conditional estate.—*Wright v. Herron*, 5 Rich. Eq., 44; *Gaffney v. Peeler*, 21 S. C., 55. (Estate of tenancy by courtesy was abolished by Act 1883, XVIII., 339, Sec. 2670 of this Code.) Leasehold estates are distributable under it.—*Payne v. Harris*, 3 Strob., 39. Has no application to real estates in trust property, and estate of trustee descends to his heir at law.—*Martin v. Price*, 2 Rich. Eq., 412. Contingent remainders and executory devises are distributable under it among heirs existing at death of person entitled in expectancy.—*Hicks v. Pegues*, 4 Rich. Eq., 413. The meaning of the word "heirs."—*Dukes v. Faulk*, 37 S. C., 264; 16 S. E., 122. Statute applies only where ancestor dies entirely intestate.—*Richardson v. Sinkler*, 4 DeS., 127; *Snellgrove v. Snellgrove*, 4 *Ib.*, 274. Devise to heirs of testator.—*Seabrook v. Seabrook*, 1 McMul. Eq., 201.

Sec. 3231. Real and personal property of every description may be taken, acquired, held, and disposed of, by an alien in the same manner in all respects as by a natural born citizen; and a title to real and personal property of every description may be derived from, through, or in succession from an alien, in the same manner, in all respects, as through, from, or in succession to a natural born citizen.

Aliens may inherit as natural born citizens.

Civ. '02, § 2469.

Union v. Ins. Co., 23 S. C., 190.

Sec. 3232. If any citizen of the United States shall die seized, possessed of, or interested in, any land or real property situated and being within this State, and leave a widow or child without the limits of the United States, and who has been naturalized, such widow shall be entitled to all the rights, interest, and estate in and to such land and real property, and be possessed of the same powers, privileges, and capacities to hold, enjoy, convey, and transmit the same, as if she were naturalized.

Alien widows.

Civ. '02, § 2470.

Sec. 3233. Nothing herein contained shall be construed to give to any child or issue (or his or her legal representatives) of the intestate, a share of his or her ancestor's estate, where such child or issue shall have been advanced by the intestate in his lifetime by portions or portion equal to the share which shall be allotted to the other children. But in

Property to be equally divided; portions advanced by intestate to be deducted.

Civ. '02, § 2471.

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case any child, or the issue of any child, who shall have been so advanced, shall not have received a portion equal to the share which shall be due to the other children, (the value of which portion being estimated at the death of the ancestor, but so as that neither the improvements of the real estate by such child or children, nor the increase of the personal property, shall be taken into the computation,) then so much of the estate of the intestate shall be distributed to such child or issue as shall make the estate of all the children to be equal.

Applies to gift by mother as well as to gifts by father.—*Rees v. Rees*, 11 Rich. Eq., 86. Construed to mean that the estate of the ancestor is to be considered as a common fund, out of which each child is to draw, at the death, an equal portion. That part which has been given is to be estimated at its value at death, relation being had as to its character at time of gift.—*McCaw v. Blewit*, 2 McC., 90; *McDougald v. King*, Bail. Eq., 154; *Ison v. Ison*, 5 Rich. Eq., 15; *Youngblood v. Morton*, 1 Strob. Eq., 122; *Manning v. Manning*, 12 Rich. Eq., 423; *McClure v. Steele*, 14 Rich. Eq., 105. Doctrine of advancements applies solely to cases of intestacy.—*Newman v. Wilbourne*, 1 Hill Ch., 10; *McDougald v. King*, Bail. Eq., 154. Or where directed by will.—*Allen v. Allen*, 13 S. C., 512; *McFall v. Sullivan*, 17 S. C., 512. Interest charged on advancements from time of distribution or death.—*McDougald v. King*, 1 Hill Ch., 10; *Ex parte Glenn*, 20 S. C., 64. What is an advancement? Gift for pleasure merely, not advancement.—*Ison v. Ison*, 5 Rich. Eq., 15. Parting with the title in the subject advanced is necessary to make advancement; mere permission to use is not.—*Ison v. Ison*, 5 Rich. Eq., 15; *Rickenbacker v. Zimmerman*, 10 S. C., 110; *Wilson v. Kelly*, 21 S. C., 535. Note payable after death given to child as advancement to equalize advancements to others, void.—*Priester v. Priester*, Rich. Eq., Ca., 26. Money expended on education of child no advancement.—*Cooner v. May*, 3 Strob. Eq., 185; *White v. Moore*, 23 S. C., 456. Gift of land by deed to child, parent using it for life, was advancement as of the date of his death.—*Hughey v. Fichelberger*, 11 S. C., 36. Slaves given and emancipated before intestate's death, no advancement.—*Id.*; *Ex parte Glenn*, 20 S. C., 64; *Wilson v. Kelly*, 21 S. C., 535. No loss of advancement, as by emancipation, subsequent to death of intestate, can affect liability therefor.—*Manning v. Manning*, 12 Rich. Eq., 410; *McClure v. Steele*, 14 Rich. Eq., 105; *Rickenbacker v. Zimmerman*, 10 S. C., 120. A purchase of land by father for son is presumed to be an advancement.—*Catoe v. Catoe*, 32 S. C., 595; 10 S. E., 1074. Child receiving advancement not obliged to bring it into hotchpot, unless he claims further share of the estate.—*Hamer v. Hamer*, 4 Strob. Eq., 124. Gift to son treated as advancement as to a grandson.—*Rees v. Rees*, 11 Rich. Eq., 86. Discharge of bond against son is an advancement.—*Id.*; *Ex parte Glenn*, 20 S. C., 64. Payment on land for children an advancement.—*O'Neale v. Dunlap*, 11 Rich. Eq., 405. Grandchildren must account for advancement to their father who died in lifetime of ancestor.—*McClure v. Steele*, 14 Rich. Eq., 105. And for advancement made to them, even after death of their parent.—*Rees v. Rees*, 11 Rich. Eq., 86. Insurance for child and premiums therefor are advancements.—*Rickenbacker v. Zimmerman*, 10 S. C., 110. Debt by note of son to father is not an advancement, nor land conveyed to son by father therefor.—*White v. Moore*, 23 S. C., 456. What is or is not an advancement may depend upon the circumstances.—*Murrell v. Murrell*, 2 Strob. Eq., 148; *Cooner v. May*, 3 *ib.*, 185; *Ison v. Ison*, 5 Rich. Eq., 15; *McCaw v. Blewit*, 2 McC. Eq., 90. But it is not a question of intention, and mere declaration of donor cannot alter the operation of the law, either as to the character of the gift or the mode of valuation.—*Youngblood v. Norton*.

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1 Strob. Eq., 122; Reese v. Reese, 11 Rich. Eq., 108; Rickenbacker v. Zimmerman, 10 S. C., 121; Stokes v. Wallace, 16 S. C., 619. Widow's third unaffected by advancements to children.—*Ex parte* Lawton, 3 DeS., 199.

Stokes v. Stokes, 62 S. C., 346; 40 S. E., 662.

Sec. 3234. Lands and personal property which shall be purchased or otherwise acquired by any person after the making of his or her will shall pass thereby, and no person shall be considered as having died intestate as to the said lands and personal estate. Property not mentioned in will.
Civ. '02, § 2472.

Applied where will executed before these Acts took effect.—Means v. Evans, DeS., 242; Garrett v. Garrett, 2 Strob. Eq., 272; Bell v. Towell, 18 S. C., 4; Moore v. Davidson, 22 S. C., 92; Welborn v. Townsend, 31 S. C., 408; 5 S. E., 96. Under the Act of 1858 there is no room for implied revocation of will, by the simple act of alteration of the estate.—Scaife v. Thompson, 5 S. C., 337. Whether Act of 1858 changed the rule that makes all devises specific, suggested.—Laurens v. Reed, 14 Rich. Eq., 256; Moore v. Davidson, 2 S. C., 92; McFadden v. Hefley, 28 S. C., 317; 5 S. E., 812.

Sec. 3235. Where any person shall be, at the time of his or her death, seized or possessed of any estate in joint tenancy, the same shall be adjudged to be severed by the death of the joint tenant, and shall be distributable as if the same were a tenancy in common. Distribution of a joint tenancy.
Civ. '02, § 2473.

McMeekin v. Bennett, 2 Hill Ch., 638; Varn v. Varn, 32 S. C., 77; 10 S. E., 9. Section has no effect except in case of the interest actually vested.—Arbmont v. Thomas, Cheves Eq., 21; Ball v. Deas, 2 Strob. Eq., 24. Estates in entirety between husband and wife.—Green v. Cannady, 77 S. C., 1; 57 S. E., 832.

Sec. 3236. In all cases where provision is made by this chapter for the widow of a person dying intestate, the same shall, if accepted, be considered as in lieu of and in place of dower; and if she shall have forfeited her dower, she shall also forfeit her distributory share of her husband's estate. Provision for widows of intestates to be in lieu of dower.
Civ. '02, § 2474.

Such provision, if accepted, is in lieu and bar of all dower.—Douglass v. Burke, 4 DeS., 143; Avant v. Robertson, 2 McM., 215; Buist v. Dawes, 3 Rich. Eq., 281; Evans v. Pierson, 9 Rich., 9. And the acceptance of her distributive share of personalty under Act 1891 barred widow's dower.—Evans v. Pierson, 9 Rich., 9. But under the law then governing, it was held that it did not.—Phinney v. Johnson, 23 S. C., 25. Acceptance of dower by a widow bars her claim as distributee.—Buist v. Dawes, 3 Rich. Eq., 281; Evans v. Pierson, 9 Rich. L., 12; Glover v. Glover, 45 S. C., 51; 22 S. E., 1.

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TITLE V.

CHAPTER LXVIII.

Of Wills.

Sec.

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3260. Competency of witnesses.

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3262. Soldiers' and mariners' wills.

3263. "Writing" to include type writing.

Who may devise; persons incapacitated to devise their lands.

Civ. '02, § 2475.

Section 3237. Any person having right or title to any lands, tenements, or hereditaments whatsoever, (persons of unsound mind and infants excepted,) may dispose thereof by will, in writing, at his or her own free will and pleasure, except as hereinafter provided; but all wills or testaments made of any lands, tenements, or other hereditaments, by any person within the age of twenty-one years, idiot, or by any person *de non sane* memory, shall not be taken to be good and effectual in law.

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Municipal corporation may take by devise.—*McIntosh v. City of Charleston*, 45 S. C., 584; 28 S. E., 943. A minor of eighteen can make a will of personalty, as this Section only restricts such right as to realty.—*Posey v. Posey*, 3 Strob., 167. Any form of words that expresses intention to dispose of estate at death is a will.—*Lyles v. Lyles*, 2 N. & McC., 531; *Brown v. Shand*, 1 McC., 409; *McGee v. McCants*, 1 McC., 517; *Kinard v. Kinard*, *Speer Eq.*, 256. Provided it be formally executed.—*Carter v. King*, 11 Rich., 125.

Buchanan v. Anderson, 70 S. C., 454; 50 S. E., 12; *Major v. Hunt*, 64 S. C., 97; 41 S. E., 816; *Sloan v. Hunter*, 65 S. C., 235; 43 S. E., 788; *Kennedy v. Kennedy*, 74 S. C., 541; 54 S. E., 772.

Sec. 3238. All wills and testaments of real and personal property shall be in writing, and signed by the party so devising the same, or by some other person in his presence and by his express directions, and shall be attested and subscribed in the presence of the said devisor, and of each other, by three or more credible witnesses, or else they shall be utterly void and of none effect.

Devises shall be in writing, attested by three or more witnesses.

Civ. '02, § 2476.

Must be in writing, except nuncupative wills as prescribed by this Chapter.—*Ex parte Turner*, 24 S. C., 214. As to signing by testator, may be by his mark.—*Wright v. Lewis*, 3 Strob., 302. He must sign in presence of the witnesses or so acknowledge his signature.—*Turnipseed v. Hawkins*, 1 McC., 72; *Black v. Ellis*, 3 Hill, 68; *Tucker v. Oxner*, 12 Rich., 141. Blind testator may sign by his mark on the will.—*Ray v. Hill*, 3 Strob., 297. Or otherwise show his cognizance of contents.—*Harleston v. Corbett*, 12 Rich., 64. As to undue influence.—*O'Neale v. Farr*, 1 Rich., 8; *Floyd v. Floyd*, Strob., 52; *Means v. Means*, 5 Strob., 9; *Means v. Means*, 6 Rich., 1. It is a question of fact for jury.—*Thompson v. Farr*, 1 *Speer*, 103; *Martin v. Speer*, 2 *Speer*, 265. That question is whether testator was a free agent; and each case depends upon its circumstances.—*Thompson v. Farr*, 1 *Speer*, 103. There must not only be proof of influence, but that it was brought to bear on execution of the will.—*Id.* As to witnesses, two witnesses not sufficient.—*Dunlap v. Dunlap*, 4 DeS., 305. Since Act of 1824, wills of both realty and personalty are required to have three witnesses.—*Houston v. Houston*, 3 McC., 491; *Johnson v. Clarkson*, 3 Rich. Eq., 305. The three alleged witnesses to a lost will must be proved; jury cannot say another subscribed in place of one who denied it.—*Bauskett v. Keitt*, 22 S. C., 195. Credible means competent at the time.—*Garland v. Crow*, 2 Ball., 24; *Taylor v. Taylor*, 1 Rich., 531; *Workman v. Dominick*, 3 Strob., 589; *Noble v. Burnett*, 10 Rich., 505; *Harleston v. Corbett*, 12 Rich., 604. Witness may attest by his initials.—*Adams v. Chaplin*, 1 Hill Ch., 265. It is imperative that witnesses sign in presence of testator—where he may see them; otherwise will is void.—*Reynolds v. Reynolds*, 1 *Speer*, 253; *Wright v. Lewis*, 5 Ch., 212; *Tucker v. Oxner*, 12 S. C., 141. Prior to amendment of Section 1882, they need not have signed in presence of each other.—*Tucker v. Oxner*, 12 S. C., 141. If testator be blind and witnesses attest within reach of his senses, it is sufficient.—*Ray v. Hill*, 3 Strob., 297. They are also to help to determine the capacity of the testator.—*Heyward v. Hazard*, 1 Bay, 335. Generally, no formal publication of will, or even declaration of the nature of the instrument, is necessary.—*Black v. Ellis*, 3 Hill, 68; *Verdier v. Verdier*, 12 Rich., 135. Wills of personalty must be executed according to law governing at death.—*Houston v. Houston*, 3 McC., 491; *in re Elock*, 4 McC., 39. As to attestation: *Ex parte Brock*, 37 S. C., 348; 16 S. E., 38; *Kaufman v. Hightman*, 49 S. C., 159; 27 S. E., 16. *In re Crawford's will*, 46 S. C., 299; 27 S. E., 69. Signing by another.—*Ex parte Leonard*, *in re Bowen's estate*.—S. C., 518; 18 S. E., 216.

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*Estates par
autre vie de-
visable, shall
be assets in
heirs' hands,
&c.*

Civ. '02, §
2477.

Sec. 3239. Any estate for the life of another shall be devisable by a will in writing, signed by the party so devising the same, or by some other person in his presence and by his express directions, attested and subscribed in the presence of the devisor by three or more witnesses; and if no such devise thereof be made, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of a special occupancy, as assets by descent, as in case of lands in fee simple; and in case there be no special occupant thereof, it shall go to the executors or administrators of the party that had the estate thereof by virtue of the grant, and shall be assets in their hands.

*Devises of
crops and
lands.*

Civ. '02, §
2478.

Sec. 3240. Any widow may bequeath by will the crop or crops standing or growing on the grounds of her dower, or on other lands planted for her use.

*Subscribing
witnesses not
to be incom-
petent be-
cause of in-
terest.*

Civ. '02, §
2479.

Sec. 3241. No subscribing witness to any will, testament, or codicil, shall be held incompetent to attest or prove the same by reason of any devise, legacy, or bequest therein in favor of such witness, or the husband or wife of such witness, or by reason of any appointment therein of such witness, or the husband or wife of such witness, to any office, trust, or duty; and such devise, legacy, or bequest shall be valid and effectual, if otherwise so, except so far as the property, estate, or interest so devised or bequeathed shall exceed in value any property, estate, or interest, to which such witness, or the husband or wife of such witness, would be entitled upon the failure to establish such will, testament, or codicil; but, to the extent of such excess, the said devise, legacy, or bequest, shall be null and void; and such appointment shall be valid, if otherwise so, but the person or persons so appointed shall not, in such case, be entitled by law to take or receive any commissions or other compensation on account thereof.

Where devisee of life estate is a witness the remainders are accelerated and take effect at once.—*Key v. Weathersbee*, 43 S. C., 414; 21 S. E. 324. Legatee competent witness, if he have equal or greater interest against the will.—*Garland v. Crow*, 2 Ball., 24. As to rule prior to enactment of this Section in 1865, see *Henderson v. Kenner*, 1 Rich., 474; *Taylor v. Taylor*, 1 Rich., 533; *Workman v. Dominick*, 3 Strob., 530. Generally.—*Richardson v. Richardson*, Dud. Eq., 184; *Henderson v. Kenner*, 1 Rich., 474; *Taylor v. Taylor*, 1 Rich., 531; *Filson v. Filson*, 3 Strob., 288; *Workman v. Dominick*, 3 Strob., 589; *Cannon v. Setzler*, 6 Rich., 471; *Mathis v. Guffin*, 8 Rich. Eq. 79; *Noble v. Burnett*, 10 S. C., 505; *Harleston v. Corbett*, 12 Rich., 604.

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Sec. 3242. In case by any will or codicil any lands, tenements, or hereditaments, shall be charged with any debt or debts, and any creditor whose debt is so charged shall attest the execution of such will or codicil, every such creditor, notwithstanding such charge, shall be admitted as a witness to the execution of such will or codicil.

Creditor may attest the execution of a will or codicil charging lands, &c., with his debt.

Civ. '02, § 2480.

Sec. 3243. No will or testament, in writing, of any real or personal property or any clause thereof, shall be revocable but by some other will or codicil in writing, or other writing declaring the same, attested and subscribed by three witnesses as aforesaid, or by destroying or obliterating the same by the testator himself, or some other person in his presence, and by his directions and consent.

Devisees to be revoked only by writing or by being destroyed by testator.

Civ. '02, § 2481.

As to revocation by written instrument.—*Legare v. Ash*, 1 Bay, 464; *Johnson v. Brallsford*, 2 N. & McC., 272; *Taylor v. Taylor*, 2 N. & McC. 482; *Neall v. Farr*, 1 Rich., 80; *Peoples v. Smith*, 8 Rich., 90; *Godbold v. Nece*, 14 S. C., 475. By destroying.—*Johnson v. Brallsford*, 2 N. & McC., 272; *Durant v. Ashmore*, 2 Rich., 184; *Watkins v. Watkins*, 13 Rich., 66; *Weskett v. Kelitt*, 22 S. C., 192. By obliteration.—*Pringle v. McPherson*, 2 DeS., 279; *Pringle v. McPherson*, 2 DeS., 524; *Means v. Moore*, Harp., 314.

Change of property.—*Scalfe v. Thompson*, 15 S. C., 353; *Prater v. Little*, 6 S. C., 44. Revocation must be intended to be *effectual*.—*Johnson v. Brallsford*, 2 N. & McC., 272; *Taylor v. Taylor*, 2 N. & McC., 482; *Means v. Moore*, Harp., 314; *O'Neall v. Farr*, 1 Rich., 80; *Durant v. Ashmore*, 2 Rich., 184. Such intention may be implied.—*Scalfe v. Thompson*, 11 S. C., 11.

Devised lands conveyed to devise, and reacquired by deviser.—*Gregg v. Millan*, 54 S. C., 378; 32 S. E., 447.

Sec. 3244. If any person making a will shall afterwards marry, and die, leaving his widow or leaving issue of such marriage, unless the will shall have been made in contemplation of marriage expressed on its face, and shall contain no provision for future wife and children, if any, it shall be deemed and taken to be a revocation to all intents and purposes.

Marriage a revocation, unless the will contain provisions for future wife and children.

Civ. '02, § 2482.

Sec. 3245. No words or limitation shall be necessary to convey an estate in fee simple by devise, but every gift of land by devise shall be considered as a gift in fee simple, unless such a construction be inconsistent with the will of the testator, expressed or implied.

Words of limitation unnecessary to convey a fee by devise.

Civ. '02, § 2483.

Applied in *Haynesworth v. Goodwin*, 35 S. C., 54; 14 S. E., 491. This provision is retroactive.—*Hall v. Goodwyn*, 4 McC., 442; *Peyton v. Smith*, 4 S. C., 476; *Dunlap v. Crawford*, 2 McC. Ch., 171; *Bowers v. Newman*, 2 S. C., 472.

& *W. C. Ry. v. Reynolds*, 69 S. C., 481; 48 S. E., 476; *Joyce v. Bode*, 54 S. C., 164; 54 S. E., 239.

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Posthumous
children to re-
ceive equal
share.

Civ. '02, §
2484.

Sec. 3246. If no provision shall be made by the will of the testator for any child or children that may be born after his death, such child or children shall be entitled to an equal share of all real and personal estates given to the other child or children, who shall contribute to make up such share or shares according to their respective interests or portions deriving to them under such will.

Talbird v. Verdler, 1 DeS., 592; Burke v. Wilder, 1 McC. Ch., 551; Myers v. Myers, 2 McC. Ch., 214; *ex parte* Wamer, Dud. Eq., 154; *ex parte* Warren, Chev. Eq., 44.

Provision for
children born
after will.

Civ. '02, §
2485.

Sec. 3247. Any child or children of any person, which may be born after the making and executing the last will and testament, but previous to the decease of such person shall be provided for and by the preceding Section.

Richardson v. Sinkler, 2 DeS., 127; Ewing v. Ewing, 2 DeS., 451; M. Lemore v. Blocker, Harp. Eq., 137; Heath v. Heath, 2 Hill Ch., 100.

Share of
child dying in
lifetime of
testator.

Civ. '02, §
2486.

Sec. 3248. If any child should die in the lifetime of the father or mother, leaving issue, any legacy of personalty or devise of real estate given in the last will of such father or mother shall go to such issue, unless such deceased child was equally portioned with the other children by the father or mother when living.

Mathis v. Hammond, 9 Rich. Eq., 137; Pegues v. Pegues, 11 Rich. Eq., 554; Rountree v. Rountree, 26 S. C., 450; 2 S. E., 474. But prior to amendment of 1883 a devise of land lapsed; the Section was restricted legacies.—Pratt v. McGhee, 17 S. C., 428; Logan v. Brunson, 56 S. C., 83 S. E., 737. The term children does not include grandchildren and great grandchildren.—*Id.*

Certain lega-
cies declared
void.

Civ. '02, §
2487.

Sec. 3249. If any person who is an inhabitant of this State, or who has any estate therein, shall beget any bastard child, or shall live in adultery with a woman, the said person having a wife or lawful children of his own living, and shall give, by legacy or devise, for the use and benefit of the said woman with whom he lives in adultery, or of his bastard child or children, any larger or greater proportion of the real clear value of his estate, real or personal, after paying of his debts, than one-fourth part thereof, such legacy or devise shall be null and void for so much of the amount or value thereof as shall or may exceed such fourth part of his real and personal estate.

The gift, or devise, while voidable as to the excess over one-fourth, is a particular estate sufficient to support a remainder.—Beatty v. Richardson.

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6 S. C., 173; 34 S. E., 73. Adultery is the illicit intercourse of two persons, one of whom, at least, is married.—Hull v. Hull, 2 Strob. Eq., 174. So a divorced husband may give to a single woman more than one-fourth of his estate.—*Id.* Such gift is voidable only at instance of lawful wife and children.—*Id.*; Powers v. McEachern, 7 S. C., 290. Legacy in trust.—Gore v. Clark, 37 S. C., 537; 15 S. E., 614.

Sec. 3250. All wills and testaments, limitations, dispositions, or appointments, of or concerning any lands, tenements, or hereditaments, or of any rent, profit, term, or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seized in fee simple, in possession, reversion, or remainder, or have power to dispose of the same, by his, her, or their last wills and testaments, shall be deemed and taken (only as against such creditor or creditors as aforesaid, his, her, and their heirs, successors, executors, administrators, and assigns, and every one of them), to be fraudulent, and clearly, absolutely, and utterly void, frustrate, and of none effect; any pretence, color, feigned or presumed consideration, or any other matter or thing, to the contrary notwithstanding: *Provided*, that where there has been or shall be any limitation or appointment, devise or disposition, of or concerning any lands, tenements, or hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money, for any child or children of any person, other than the heir at law, according to, or in pursuance of, any marriage contract or agreement in writing: *bona fide* made before such marriage, the same and every one of them shall be in full force; and the same lands, tenements, and hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her, and their heirs, executors, administrators, and assigns, for whom the limitation, appointment, devise, or disposition was made, and by his, her, and their trustee or trustees, his, her, or their heirs, executors, administrators, and assigns, for any estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid, and satisfied.

Wills fraudulent as against creditors; *proviso.*

Civ. '02, § 2488.

Black v. Kirkpatrick, 60 S. C., 322; 38 S. E., 784.

Sec. 3251. Wills shall be proved before the Judge of the County where the testator resided; or, he being no place of residence within the State, in the County where the greater part of his estate may be.

Wills, where proved.

Civ. '02, § 2489.

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In re Mayo's estate.—60 S. C., 401; 38 S. E., 636."Residence" defined.—*Lehardy v. Dubbs*, 80 S. C., 482; 61 S. E., 950.

Will of a
femme covert
made in exe-
cution of a
power.

Civ. '02, §
2490.

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Sec. 3252. The probate, before the proper Judge of Probate, of any last will and testament of a *femme covert*, heretofore or hereafter made in the execution of a power, shall be good, sufficient, and effectual in law, in the same manner, and to the same extent as if the testatrix was a *femme sole*, and a devise or bequest under such will shall be admitted in evidence in the same manner, and have the same effect in the Courts of law in this State, as if no coverture existed at the time of the making thereof.

(

Burkett v. Whittemore, 36 S. C., 428; 15 S. E., 616.

Wills, how
proved.

Civ. '02, §
2491.

Sec. 3253. When a paper is offered before a Judge of Probate as the last will and testament of a person deceased, he may admit it to probate in either of the following forms, that is to say:

The admission of a will to probate merely establishes the fact that it has been made as required by Statute.—*Burkett v. Whittemore*, 36 S. C., 428; 15 S. E., 616.

1. Common
form.

1. Without citing or calling before him such as have interest, he may examine one of the subscribing witnesses thereto, or, in case of their death, or their removal from the State, by proof of the handwriting of the testator or testatrix and of the subscribing witnesses, or any other secondary evidence admissible and sufficient by the rules of the common law; and if such proof shall satisfy the Judge of Probate that the paper is the last will and testament of the deceased, he shall admit it to probate in *common form*.

Ordinary on application for probate of will in solemn form can revoke probate in common form by his predecessor.—*Gibson v. Brown*, 1 N. & McC. 326. To complete probate, letters testamentary must be granted.—*In re Drayton*, 1 McC., 46.

2. Due form
of law.

2. Probate in common form shall be good, unless some person or persons interested to invalidate the said paper as a will shall give notice to the Judge of Probate, within four years next after such probate, (or, if any party interested therein be subject to the disability of infancy, then, within four years next after such disability removed,) that he, she, or they do require it to be proved in *due form of law*, which is as follows: the Judge of Probate shall require the party producing the will for probate to prefer a petition in writ-

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g, praying to be permitted to swear and examine witnesses upon the same, for the publishing or confirming thereof; and, thereupon, all such persons as would have been entitled to distribution of the estate, if the deceased had died intestate, shall be summoned to answer the petition, in like manner as is provided for the summons of parties in civil actions in the Courts of Common Pleas; whereupon he shall, after swearing all the subscribing witnesses to the same, proceed to examine severally, and to take down in writing such depositions of other witnesses as are made for and against the confirmation of the will, upon all matters touching its legal validity, or formal execution; and, in case the proof be sufficient, he shall, by his decree, pronounce the validity of the will.

Quiescence in probate in common law for four years thereafter, or after removal of disabilities, will bar this proceeding.—*Kinard v. Riddlehoover*, 8 Rich., 258; *Ward v. Glenn*, 9 Rich., 127. Non-resident next of kin ignorant of will permitted to litigate it for fraud, after probate.—*McDowell v. Kinard*, 2 DeS., 313. If no executor or administrator, parties interested in obtaining the will may be required to so prove the will.—*Id.* Will established thus, and confirmed on appeal, cannot be disturbed by Court of Equity.—*Ward v. McCrane*, 4 DeS., 422. Probate Court cannot construe will on such application—only determines execution and capacity.—*Prater v. Whittle*, 16 S. C., 40. And lapse of four years thereafter will not bar the right to testate the validity of provisions of the will.—*Craig v. Beatty*, 11 S. C., 375. As to validity—subscribing witnesses are to testify to capacity of testator.—*Kinard v. Hazard*, 1 Bay, 335. Generally, as to capacity.—*Palmer v. Kinard*, 2 DeS., 342; *Hutton v. Blalock*, 2 Mill, 231; *Lee v. Lee*, 4 McC., 23; *Tompkins v. Tompkins*, 1 Ball., 92; *Black v. Ellis*, 3 Hill, 68; *Boyd v. Hill*, 3 Hill, 341; *Martin v. Teague*, 2 Speer, 260; *McNinch v. Charles*, 2 DeS., 229; *Jones v. Harris*, 3 Rich., 14; *Wright v. Lewis*, 5 Rich., 212; *Wright v. Jennings*, 8 Rich. Eq., 87; *McKnight v. Wright*, 12 Rich., 232; *Wright v. Tucker*, 1 S. C., 245. Undue influence.—*Tillman v. Hatcher*, Rice, 1; *Farr v. Thompson*, Cheves, 37; *Thompson v. Farr*, 1 Speer, 93; *Martin v. Hatcher*, 2 Speer, 260; *Farr v. O'Neale*, 1 Rich., 80; *Floyd v. Floyd*, 3 DeS., 44; *Woodward v. James*, 3 Strob., 552; *Means v. Means*, 5 Strob., 1; *Kirkwood v. Gordon*, 7 Rich., 479; *Jolliffe v. Fanning*, 10 Rich., 186. Invalidity, on legal grounds.—*Jolliffe v. Fanning*, 10 Rich., 186. As to execution—all witnesses must be sworn.—*Wooster v. Wooster*, 4 DeS., 409. Testator's signature need not be proved by each witness; sufficient if proved by others.—*Welch v. Welch*, 9 Rich., 133. If witnesses deny testation, other clear proof of execution admissible.—*Pearson v. Wight*, 10 Rich., 336; *Howell v. House*, 2 Mill, 80. Proof of execution does not affect its construction.—*Prater v. Whittle*, 16 S. C., 46. As to verbal wills before execution.—*Whitlock v. Wardlaw*, 7 Rich., 453. When produced.—*Watkins v. Watkins*, 13 Rich., 66.

When the person producing said will for probate is a non-resident of the State, or cannot after due diligence be found within the State, and that fact appears by affidavit to the satisfaction of the Probate Judge, and it in like man-

Proceedings in cases of non-residents.

1891, XX., 1120.

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Summons to
be issued.

How served.

Proceedings
to be had
where no one
appears.Proof of sig-
natures of
subscribing
witnesses.Civ. '02, §
2492.Executor to
have affirma-
tive of issue,
will or no will.Civ. '02, §
2493.

ner appears that there is cause for the commencement of proceedings for the probate of said will in solemn form the said Probate Judge may grant an order that a summons requiring the filing of the petition herein provided for be served on such absent or non-resident person by publication in such manner and for such period and with like force and effect as provided by law in regard to the publication of summons in civil actions. If such absent or non-resident person shall fail or neglect to file his or her petition pursuant to said summons within twenty days after the expiration of the period of publication thereof, it shall be lawful for the Probate Judge, upon application by the party or parties moving in the proceedings, to enter judgment *pro confesso* against such absent or non-resident person, and to issue a summons to all such persons as would have been entitled to share in the distribution of the estate if the deceased had died intestate, requiring them to attend at the said Court on a day therein fixed. And such further proceedings shall thereupon be had as provided by paragraph 2 of this Section.

Sec. 3254. Upon occasion of proving a will in solemn form, if it appear to the Judge of Probate that the witnesses to the will, or any of them, are dead, or insane, proof of the handwriting of the witnesses so dead or insane, and of the handwriting of the testator, shall be admitted by the Judge of Probate as *prima facie* evidence that the testator did execute the will in question, in the presence of the witnesses thereto.

Hopkins v. DeGraffenreid, 2 Bay, 187; Hopkins v. Albertson, 2 Bay, 454; Sampson v. White, 1 McC., 74; Duncan v. Beard, 2 N. & McC., 400; Wooster v. Wooster, 4 Rich., 409; Verdler v. Verdler, 8 Rich., 135.

Thames v. Rouse, 82 S. C., 40; 62 S. E., 254.

Sec. 3255. In all trials upon appeals from the Probate Court, in which the question of will or no will is in issue the executor or parties propounding the will shall be admitted to open the case, and to reply in evidence and argument.

In re Brock, 37 S. C., 348; 16 S. E., 38.

Farr v. Thompson, 1 Speer, 93; Floyd v. Floyd, 3 Strob., 44; Harris, 3 Rich., 14; Means v. Means, 6 Rich., 1; Watkins v. Watkins, 8 Rich., 66. Such issue is tried *de novo*.—Peeples v. Smith, 8 Rich., 99; v. Whittle, 16 S. C., 46. But it must be tried by the Court, and fact can only be referred to the jury under Circuit Court Rule 28.

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Apeler, 35 S. C., 417; 14 S. E., 931. As to costs.—McNIGHT v. Wright, 12 Rich. Eq., 229; Bennett v. Mathewes, 5 S. C., 478.
Ex parte Jackson *in re* Huntley v. Hursey, 67 S. C., 55; 45 S. E., 132.

Sec. 3256. In all actions, exemplifications of wills under the hand of the Judge of Probate and seal of the Court in which such will may have been admitted to probate, or under the hand and seal of any other officer who has legal possession of the same, shall be admissible in evidence in any of the Courts of this State, whether the same may regard the title to real or personal property: *Provided*, The party offering such exemplification shall give to the opposite party, or his attorney, at least ten days' notice of such intention previous to the trial.

Exemplified copies of wills may be given in evidence; proviso.
 Civ. '02, § 2494.

The probating of the will is necessary as evidence only.—Stacher v. Grice, 3 S. C., 126; 31 S. E., 3. Copy as evidence.—Counts v. Wilson, 45 S. C., 1; 23 S. E., 942. Probate Judge presumed to have received proof of will before allowing executors to act under it.—*Id.*

This Section intended to obliterate distinction between the effect of a probate as to bequests and devises.—Rumph v. Hlott, 35 S. C., 444; 15 S. E., 10. Probate simply establishes the fact that the will has been made according to the form prescribed by Statute.—Burkett v. Whittemore, 36 S. C., 428; 15 S. E., 616.

Sec. 3257. If a will be regularly proved in any foreign court, an exemplification of such will may be admitted to probate in this State upon the exemplification and certificate of the Judge of the Court of Probate; and the exemplification shall also be evidence of the devise of lands in this State where the title of land comes in question: *Provided*, that if the will be not proved in solemn form, the parties interested against the will shall not be concluded by such probate, but may examine witnesses as to the sanity of the testator, or as to any fraud or imposition practised upon him in obtaining the will; and the other side may apply for an order to perpetuate testimony in support of the will.

Foreign probates admitted to probate upon exemplification and certificate; proviso.
 Civ. '02, § 2495.

Gause v. Gause, 4 McC., 382; *Sally v. Gunter*, 13 Rich., 72; *Abrams v. Kelly*, 7 S. C., 150; *Patterson v. Pagan*, 18 S. C., 384; *Thornton v. Dean*, 1 S. C., 583; *Gravely v. Gravely*, 20 S. C., 93; *Id.*, 25 S. C., 1; *Blount v. Ker*, 28 S. C., 545; 6 S. E., 558.

Sec. 3258. No nuncupative will shall be good where the testator thereby bequeathed shall exceed the value of fifty dollars, that is not proved by the oaths of three witnesses at the least, who were present at the making thereof, and bid the testator to bear witness that such was his will, or

Nuncupative wills exceeding fifty dollars to be proved by three witnesses.
 Civ. '02, § 2496.

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words to that effect; nor unless such will was made in the last sickness of the deceased, in the house or place where he or she shall die.

McGee v. McCants, 1 McC., 517; *Ex parte* Turner, 24 S. C., 214.

Time of
proving.

Civ. '02, §
2497.

Sec. 3259. No testimony shall be admitted to prove any nuncupative will, if six months have elapsed after speaking the pretended testamentary words, except such testimony or the substance thereof were committed to writing within six days after the making of the said will, and then twelve months shall be allowed, and no more, for the probate of such will.

Competency
of witnesses.

Civ. '02, §
2498.

Sec. 3260. All such witnesses as are and ought to be allowed to be good witnesses upon trial at law by the laws and customs of this State shall be deemed good witnesses to prove any nuncupative will, or anything relating thereunto.

Kindred to
be cited that
they may con-
test.

Civ. '02, §
2499.

Sec. 3261. No nuncupative will shall at any time be received to be proved, unless process shall have first issued to call in the widow or next of kindred to the deceased, to the end that they may contest the same, if they please.

Soldiers' and
mariner's
wills.

Civ. '02, §
2500.

Sec. 3262. Any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his movables, wages, and personal estate, as he or they might have done at common law.

"Writing"
to include
typewriting.

Sec. 3263. Wherever the word "writing" is used in this Title and Chapter, it shall be construed to include typewriting; and any and all wills and testaments heretofore or hereafter admitted to probate which may have been, or may be, in typewriting, are hereby validated and confirmed, and declared to be as effectual as they would have been had they been written by hand.

TITLE VI.

OF THE SETTLEMENT OF ESTATES OF DECEASED PERSONS, TRUSTS AND SPECIAL PROVISIONS RELATING TO TRUSTS.

CHAPTER LXIX. *Letters Testamentary and Proceedings
on the Probate of Wills.*

CHAPTER LXX. *Administration of Intestates' Estates.*

CHAPTER LXXI. *Inventories and Appraisements.*

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tors and Administrators.*

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tate Estates.*

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CHAPTER LXXVI. *Trusts and Special Provisions Relating
to Trusts and Guardianships.*

CHAPTER LXIX.

Letters Testamentary and Proceedings on the Probate of Wills.

- 264. Letters of administration with will annexed; when and to whom granted.
- 265. Non-resident may act as executor; when.
- 266. Powers.
- 267. Renunciation of office.
- 268. Executor of an executor not to represent state of first testator.
- 269. Oath to be taken by executor or administrator with will annexed.
- 270. Administrator with will annexed to give bond; amount of; how fixed.
- 271. Trustees, executors, etc., may charge premium on bond to estate.
- 272. Condition of the bond.
- 273. Bond to be made payable to Judge of Probate; may be sued by persons injured, &c.

- SEC. 3274. Infirm or distant executors may be qualified by commission, &c.
- 3275. What a sufficient probate of will of personal or real property.
- 3276. Letters, &c., on nuncupative will not to pass seal of Court until fourteen days after testator's death. What sufficient probate of will of real or mixed property. Letters on nuncupative will not to pass court until 14 days after testator's death.
- 3277. Persons under twenty-one years of age not to be executors, &c.
- 3278. If debtor be executor, debt not thereby extinguished.

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When letters of administration, with the will annexed, to be granted. Rules to govern appointment in such cases.

Civ. '02, § 2501.

Section 3264. Whenever a deceased person shall have left a will in writing without having appointed an executor therein, or, having appointed one or more executors, all of them shall have departed this life without having qualified thereon, or, being alive, shall have refused to qualify, or some or all of them having qualified, shall have departed this life, leaving the estate not fully administered, it shall be the duty of the Judge of Probate, in whose Court such will shall have been proved, to grant letters of administration, with the will annexed, to such persons as shall have the greatest interest in sustaining such will, in the order of their interests. And in case no person taking interests under such will shall apply within three months after the death of the testator, then to the greatest creditor or creditors; and in default of such applying, then to such other persons as may apply therefor.

Who is such creditor.—*Burkhim v. Pinkussohn*, 58 S. C., 469; 36 S. E. 908. A non-resident of the estate cannot be appointed administrator.—*Id.* See also *Smith v. Wingo*, Rice, 287; *State v. Watson*, 2 Speer, 97; *Rose v. Thornley*, 33 S. C., 313; 12 S. E., 11.

Non-resident may act as Executor upon certain conditions named.

1902, XXIII, 1064.

Sec. 3265. From and after the first day of July, A. D. 1902, no letters testamentary shall be granted or issued to any executor named in any will admitted to probate in this State, who is at the time when such letters are granted a non-resident of this State, unless such executor shall first enter into bond in the same manner as is required by law with regard to an administrator with the will annexed, nor unless such executor shall first file with the Probate Judge of the County where such will is admitted to probate, his consent, by written instrument, that service may be made upon him of the summons or other process in suits or actions concerning the administration of the estate in his charge, in this State, by service of the same upon such resident of said County as may be appointed by said non-resident executor in such instrument; and in case of the death or absence from the State of the person so appointed, or any successor named by similar instrument, filed with the Probate Judge, then upon the Probate Judge of said County.

Powers non-resident executor.—*Id.*

Sec. 3266. Upon the granting of such letters such non-resident executor shall be vested with all the powers of resident executors.

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Sec. 3267. After the lapse of twelve months from the date of the admission to probate of any will in this State, if it be made to appear to the satisfaction of the Probate Judge of the County where such will has been admitted to probate, that any executor named in said will is a non-resident of this State and has not prior thereto qualified upon said will, then it shall be the duty of the said Probate Judge to cite such executor to qualify before him on a day named in the citation, which shall be not less than sixty days from the date thereof, and such citation shall be served upon such non-resident executor in the manner now required by law with regard to an executor who may have changed his domicile beyond the limits of this State; and if such non-resident executor fails to appear in person or by attorney upon the day named, or appearing, shall fail to disprove that he is a non-resident, and failing to appear or disprove that he is a non-resident, shall not within thirty days after the day fixed in said citation qualify in the manner herein provided for non-resident executors, then such failure shall be received as a formal renunciation by him of his appointment or nomination as executor under the terms of said will.

Renunciation
of office by
non-resident
Executor;
how estab-
lished.—Id.

Sec. 3268. No executor of an executor shall have authority, as such, to administer the estate of the first testator; but on the death of the sole or surviving executor of any last will and testament, administration of the estate of the first testator, not already administered, may be granted, with a will annexed, to such person as would have been entitled thereto had the first testator died intestate.

Executor of
an executor
not to repre-
sent estate of
first testator.

Civ. '02, §
2502.

Reeves v. Tappan, 21 S. C., 6; *Reeves v. Brayton*, 36 S. C., 384; 15 S. E.,
Ketchen v. Rion, 68 S. C., 260; 47 S. E., 376.

Sec. 3269. Every executor or administrator with the will annexed, at the time of proving the will or the granting of administration, shall take the following oath: "I do solemnly swear that this writing contains the true last will of the person named A B, deceased, so far as I know or believe; and that I will well and truly execute the same, by paying to the debts and then the legacies contained in the said will, so far as his goods and chattels will thereunto extend; and the law charge me, and that I will make a true and

Executor or
administrator
with will an-
nexed, to take
oath; form of
oath.

Civ. '02, §
2503.

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perfect inventory of all such goods and chattels: So help me God."

Administra-
tor, with will
annexed, to
give bond;
amount of;
how fixed.

Civ. '02, §
2504.

Sec. 3270. The administrator with the will annexed shall enter into bond in a penalty double the estimated value of the personal property of the intestate, and shall have two or more good sureties, the aggregate value of whose estates, over and above their indebtedness, shall not be less than the full amount of the penalty of the bond.

Tru s tees,
guardians, ex-
ecutors, etc.,
may charge
premium on
bond to es-
tate.

1907. XXV.
541.

Sec. 3271. Any person appointed executor, administrator, guardian, receiver, trustee, or to act in any fiduciary capacity, who is required by law to give bond, and who gives bond signed by any surety company authorized to do business in this State, and which bond is approved, shall be allowed and may include as part of his expenses a reasonable sum paid to such company as a premium for signing such bond, the reasonableness to be passed upon by the Court or officer that passes upon the sufficiency of the bond: *Provided*, That in no case shall the premium amount to more than one per cent. of the penalty of the bond.

Condition of
bond.

Civ. '02, §
2505.

Sec. 3272. The condition of the said bond shall be in the following form, to wit: "The condition of this obligation is such that if the above bound C D, administrator, with the will annexed, of the goods, chattels, and credits of E F. deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased, which have or shall come into the hands or possession or knowledge of the said C D, or into the hands or possession of any other persons for him, and the same so made do exhibit into the said Court of Probate at such time as he shall be thereunto required by the said Court, and the same goods, chattels and credits do well and truly administer according to law, and make a just and true account of his actings and doings therein when lawfully required; and, further, do well and truly pay and deliver all the legacies contained and specified in the said will, as far as the goods, chattels and credits will extend, and the law require, then this obligation to be void, or else to remain in full force."

Walker v. Crossland, 3 Rich. Eq., 23.

Sec. 3273. The said bond shall be made payable to the Judge of Probate of the County and his successors, and may

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be sued by any person injured by the breach of the condition; and judgment for the penalty shall stand as a security for the amount recovered by the party grieved, and for all others in similar circumstances who may, from time to time, by suggestion on the record, have their damages assessed, until the whole penalty be exhausted.

Bond to be payable to Judge of Probate.

Civ. '02, § 2506.

Kennedy v. Adicks, 37 S. C., 174; 15 S. E., 922; McCorkle v. Williams, 48 S. C., 66; 20 S. E., 744.

Sec. 3274. When a person appointed executor is infirm, or lives at a great distance from the office of the Judge of Probate where the will has been proved, the Judge of Probate shall have power to grant a commission to some two or more respectable persons in his neighborhood to administer to him the oaths, and perform the other requisites for granting probate of the will.

Infirm or distant executors may be qualified by commission, &c.

Civ. '02, § 2507.

Sec. 3275. The probate, in due form of law, by and before the proper Judge of Probate, of any last will and testament, whether the same be of real property exclusively, or of real and personal property mixed, shall be good, sufficient and effectual in law in the same manner and to the same extent as if the said last will and testament were exclusively of personal estate; and no devise of real estate shall be admitted as evidence in any case until after probate, whether in common form or due form of law.

What shall be a sufficient probate of a will of real or personal property.

Civ. '02, § 2508. 1903, XXIV, 88.

See also Section 3154, *ante*.

Sec. 3276. No letters testamentary or probate of any nuncupative will shall pass the seal of any Court till fourteen days, at the least, after the decease of the testator.

No letters testamentary, &c., to pass the seal of any Court until fourteen days after testator's death.

Sec. 3277. No executor or executrix shall take upon himself or herself the administration of any will or devise, unless he or she be of the full age of twenty-one years.

Civ. '02, § 2509.

Sec. 3278. If any person shall, by will, appoint his debtor to be his executor, such appointment shall not, in law or equity, be construed to be a release or extinguishment of the debt, unless the testator, shall, in his will, expressly declare his intention to release the same.

Persons under twenty-one years of age not to be executors, &c.

Civ. '02, § 2510.

If debtor be executor, debt not thereby extinguished.

Debt is considered as cash in hands of executor.—Hall v. Hall, 2 McC. Ch.,

Civ. '02, § 2511.

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CHAPTER LXX.

Administration of Intestates' Estates and Derelict Estates.

Sec.

3279. Letters of administration, to whom granted.
3280. Letters to one creditor to be for the benefit of the other creditors.
3281. Payment of debts to be in proportion to assets.
3282. On death of executor or administrator, letters *de bonis non* to be granted.
3283. Mode of granting administration; citation to kindred and creditors, how published.
3284. Oath of administrator.
3285. Bonds of; penalty; condition.
3286. To be made payable to Judge of Probate; suits on; liability of Judge.
3287. Sureties; proceedings for relief of.
3288. Proceedings on alleged loss or destruction of a will.
3289. Executors of executors liable for wrongful conversion of goods.

Sec.

3290. Derelict estates, letters on, to be granted to Clerk of Court; when; proceedings before Judge of Probate.
3291. Clerk's administration transmitted to his successor *virtute officii*.
3292. Acts of successors validated.
3293. Outgoing Clerks to turn over assets to successor.
3294. Executor in his own wrong who shall be chargeable as and to what extent.
3295. Proceedings in Probate Court against executors of their own wrong for discovery and account.
3296. Liability of executors or administrators or executors in their own wrong.
3297. When executor may pay fund going to legatee and be discharged from liability therefor.

The fact of death jurisdictional.—*Moore v. Smith*, 11 Rich. L., 569; 73 Am. Dec., 122.

Letters of
administration — to
whom granted.

Civ. '02, §
2512.

Section 3279. In case any person die intestate, the Judge of Probate of the County where the will of such person, had he left a will, would have been proved, shall grant administration of the goods, chattels, rights, and credits of such person deceased, to his or her relations, in the order following, to wit:

1. To the husband or wife of the deceased: *Provided, always*, That if any widow, after having obtained letters of administration, shall marry again, the Judge of Probate shall have power to revoke the administration before granted, or join one or more of the next of kin in the administration with her;

2. If there be no husband or wife of the deceased, or they do not apply, then to the child or children, or their legal representatives;

3. In default of them, then to the father or mother;
4. In default of them, to the brothers and sisters;
5. In default of them, to such of the next of kindred of the deceased, at the discretion of the Judge of Probate, as shall be entitled to a distributive share of the intestate's estate; and,
6. In default of such, to the greatest creditor or creditors, or such other persons as the Court shall appoint.

Who is such creditor.—*Burklim v. Pinkussohn*, 58 S. C., 469; 36 S. E., 908. Letters should not be granted a non-resident.—*Id.*

This order compulsory.—*Smith v. Wingo, Rice*, 287. Applies where executors of will are dead or refuse to qualify, as in case of intestacy.—*Smith v. Wingo, Rice*, 287. Administration granted to husband and wife is administration of husband alone.—*Lewis v. Price*, 3 Rich. Eq., 172. Widow cannot transfer her right.—*McBeth v. Hunt*, 2 Strob., 335. Judge may grant to such child or children as he sees fit.—*State v. Mitchell*, 3 Brev., 520. As to selection among next of kin.—*Smith v. Wingo, Rice*, 287. Grandchildren preferred to mere next of kin.—*Smith v. Wingo, Rice*, 287. As to creditors.—*Screven v. Bostick*, 2 McC. Ch., 410; *Ex parte Ostendorff*, 17 S. C., 24. Any persons enumerated preferred to stranger, and at their instance administration committed to stranger must be revoked.—*Thompson v. Huchet*, 2 Hill, 347; *Smith v. Wingo, Rice*, 287. In absence of kindred and creditors it is discretionary with Judge to whom administration shall be granted.—*Thompson v. Huchet*, 2 Hill, 347; *Ex parte Crafts*, 28 S. C., 281; 5 S. E., 517. The wishes of those having greatest interest in estate should have great, but not controlling, weight with him.—*McBeth v. Hunt*, 2 Strob., 335; *Ex parte Ostendorff*, 17 S. C., 24. First grant of administration conclusive until annulled by direct proceeding.—*Petigrew v. Ferguson*, 6 Rich. Eq., 378. Grant of administration has relation to the time of intestate's death.—*McVaughters v. Elder*, 2 Brev., 307; *Hamer v. Bethea*, 11 S. C., 428; *Cook v. Cook*, 24 S. C., 206. It vests in administrator only the movable property within the State which grants it; does not include choses in action in State where debtor resides.—*Dial v. Gary*, 14 S. C., 573. But administrator is liable for property brought by him here from another State.—*Cureton v. Mills*, 13 S. C., 423. As to revocation.—*McLaurin v. Thompson*, Dud., 335; *Smith v. Wingo, Rice*, 287; *Rollin v. Whipper*, 17 S. C., 34; *Ex parte Crafts*, 28 S. C., 281; 5 S. E., 517; *Ex parte White*, 38 S. C., 41; 16 S. E., 286. Error in grant of administration can be corrected by appeal only.—*State v. Mitchell*, 3 Brev., 520.

Right of tortfeasor liable for causing death of intestate under Lord Campbell's Act to attack grant of letters of administration on estate of decedent.—*In re Mayo's estate, ex parte N. E. R. R. Co.*, 60 S. C., 401; 38 S. E., 684. Such liability on assets sufficient to authorize grant of letters.—*Id.* Grant of letters on estate of non-resident.—*Id.*

Probate Judge may deny administration to party named in statute, if unfit, etc.—*Ex parte Small*, 68 S. C., 46; 46 S. E., 720. Person having action for damages against deceased is creditor.—*Ex parte Conrad*, 75 S. C., 1; 54 S. E., 799. Question as to survival of cause of action is for the common pleas and not probate court.—*Ex parte Conrad*, 75 S. C., 1; 54 S. E., 799. Proof as to assets in county, in absence of allegation.—*Ex parte Conrad*, 75 S. C., 1; 54 S. E., 799.

Sec. 3280. No letters of administration shall be granted to any person or persons whomsoever, as principal creditor or creditors to any intestate, but upon special trust and confidence, and for the benefit of all the rest of the creditors.

Letters to one creditor to be for the benefit of all the other creditors.

Civ. '02, § 2513.

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Payment of
debts to be in
proportion to
assets.

Civ. '02, §
2514.

On the death
of an execu-
tor or admin-
istrator let-
ters *de bonis*
non to be
granted.

Civ. '02, §
2515.

Mode of
granting ad-
ministration;
kindred and
creditors may
be cited: cita-
tion, how to
be published.

Civ. '02, §
2516.

Administra-
tor to give
oath in open
Court.

Civ. '02, §
2517.

Sec. 3281. All debts of an equal nature shall be discharged by such administrator in average and proportion as far as the assets of the intestate shall extend, and no preference shall be given among the creditors in equal degree.

Sec. 3282. When a sole surviving executor or administrator shall die, the estate in his hands not having been fully administered, it shall be the duty of the Judge of Probate of the County in which letters testamentary or of administration were first granted, to grant letters of administration *de bonis non* with the will annexed, or of administration *de bonis non* of the estate.

Williams v. Seabrook, 3 McC., 371; Johnston v. Lewis, Rice Eq., 40; Villiard v. Roberts, 1 Strob. Eq., 393.

Sec. 3283. The Judge of Probate shall grant administration in the following manner: after requiring the person or persons applying therefor to file a petition in writing, he shall issue a citation to the kindred or creditors of the intestate or person deceased, to show cause, if any they have, why administration shall not be granted to the person or persons applying therefor, and he shall cause the same to be published on the court house door of the County in which his office is for two successive weeks, and also by having it printed once a week for two successive weeks after it has been issued in some public gazette, if any be published in the County.

In the absence of testimony the Court will presume that publication was made.—Hendrix v. Holden, 58 S. C., 495; 36 S. E., 1010.

On refusing petitioner, Judge may grant letters to another without further citation.—*Ex parte* Small, 68 S. C., 46; 46 S. E., 720.

Sec. 3284. Every administrator shall, in open Court, when letters of administration are granted him, take the following oath or affirmation, as the case may be, to wit: "I do solemnly swear, or affirm, that A B, deceased, died without any will, as far as I know or believe, and that I will well and truly administer all and singular the goods and chattels, rights and credits, of the said deceased, and pay all his just debts, as far as the same will extend, and the law require me, and that I will make a true and perfect inventory of all the said goods and chattels, rights and credits, and return

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a just account thereof when thereunto required: So help me God."

Sec. 3285. Such administrator shall also enter into bond, with two or more good sureties, the aggregate value of whose estates, over and above their indebtedness, shall not be less than the full amount of the penalty of the bond, to be approved by the Court in a sum equal to double the estimated value of the personal property of the intestate, with the condition following: "The condition of the above obligation is such, that if the above bound A B, administrator of the goods, chattels, and credits of C D, deceased, do make a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of the said A B, or into the hands or possession of any other person or persons for him, and the same so made do exhibit into the said Court of Probate, when he shall be thereto required, and such goods, chattels, and credits do well and truly administer according to law, and do make a just and true account of his actings and doings therein when required by the said Court, and all the rest of the said goods, chattels, and credits, which shall be found remaining upon the account of the said administration, the same being first allowed by the said Court, shall deliver and pay unto such persons respectively as are entitled to the same by law; and if it shall hereafter appear that any last will and testament is made by the said deceased, and the same be proved in Court, and the executors obtain a certificate of the probate thereof, and the said A B do, in such case, if required, render and deliver up the said letters of administration, then this obligation to be void, otherwise to remain in full force."

Such administrator to give bond with two or more sureties; amount of bond, how determined; form of bond.

Civ. '02. § 2518.

Such bond may be given in a Surety Company under Section 657. This form must be followed.—Ordinary v. Blanchard, 3 Brev., 136. Require no part of qualification of surety.—State v. Watson, 2 Speer, 97. Action on bond may be brought in name of Probate Judge.—Johnson v. Dawkins, 3 S. C., 532; Burnside v. Robertson, 28 S. C., 583; 6 S. E., 843. Liability of sureties.—None at law to distributees until decree has been had against administrator on accounting.—Ordinary v. Giles, 3 Brev., 530; Bayne v. Klock, 2 DeS., 602; Ordinary v. Williams, 1 N. & McC., 587; Ordinary v. Towers, 2 N. & McC., 213; Lyles v. Caldwell, 3 McC., 225; Shelton v. Patton, 3 McC., 412; Anderson v. Maddox, 3 McC., 237; Harrington v. Cole, 1 McC., 509; Jones v. Anderson, 4 McC., 112; Lyles v. Brown, Harp., 31; S. v. Robinson, 1 Bail., 25; Chambers v. Patton, 1 Bail., 130; Mitchell v. Donnelly, 1 Bail., 203; Ross v. Chambers, 1 Bail., 548; Ross v. Pettus, 11 S. C., 543; Ordinary v. Martin, 4 Rich., 271; McAfee v. McAfee, 28 S. C.,

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218, 188; 5 S. E., 480, 503. And such decree is only *prima facie* evidence and may be shown to be incorrect.—Ordinary v. Cobb, 2 Ball., 60; Ordinary v. Trail, 2 Ball., 480; Schnell v. Schroder, Bail. Eq., 334; Ordinary v. Condy, 2 Hill, 313; Ordinary v. Carlisle, 1 McM., 100; Ordinary v. Arch- 1 McM., 35; Ordinary v. Wallace, 1 Rich., 507; Ordinary v. Osborn, 2 Rich. 90; Ordinary v. Bailey, 5 Rich., 68; Ordinary v. McCully, 5 Rich., 80. It cannot be shown to be fraudulent.—Ordinary v. Wallace, 2 Rich., 460; Ordinary v. Caldwell, 4 Rich., 117. Yet creditors can sue sureties as soon as they have established debt against administrator and failed to make it.—Ordinary v. Hunt, 1 McM., 380; Kaminer v. Hope, 18 S. C., 561; Wilbur v. Hutto, 2 S. C., 246; Burnsides v. Robertson, 28 S. C., 583; 6 S. E., 843; Ordinary v. Johnsey, 6 Rich., 355. Remedy against surety is at law.—Teague v. Deas, 2 McC. Ch., 207. But they may be joined, in Equity, with principal or his representative.—Aiken v. Miller, Harp. Eq., 69; Magwood v. Butler, Harp. Eq., 265; McBee v. Crocker, McM. Eq., 485; Gayden v. Gayden, McM. Eq., 435; O'Neale v. Herbert, McM. Eq., 495; Swindersine v. Miscally, Bail. Eq., 304; Taylor v. Taylor, 2 Rich. Eq., 123; Wright v. Eaves, 10 Rich. Eq., 30. Sureties of one administrator not liable to another.—Haeil v. Blanchard, 4 DeS., 21; Knox v. Pickett, 4 DeS., 92. Discharge of.—Ordinary v. Corbett, Bay, 328; Moodie v. Penman, 3 DeS., 482; Beckham v. Pride, 6 Rich. Eq., 78. Generally.—Watson v. Whitten, 3 Rich., 224; Ericks v. Powell, 2 Strob. Eq., 196; Glenn v. Wallace, 4 Strob. Eq., 149; Rhame v. Lewis, 13 Rich. Eq., 269; Bomar v. Ezell, 22 S. C., 398.

Bond to be payable to Judge of Probate; how to be sued; penalty if Judge does not take sufficient security.

Civ. '02, § 2519.

Sec. 3286. The said bond shall be made payable to the Judge of Probate and his successors, and recorded in his office, in a book to be kept for that purpose, and may be sued in like manner as is prescribed in Section 3166, in the case of bonds given by administrators with the will annexed; and if the Judge of Probate shall fail to take bond and security as aforesaid, such Judge of Probate shall be liable to be sued for all damages arising from such neglect by any person or persons interested in the estate.

The ability of the sureties must be looked to.—McRae v. David, 5 Rich. 475. The Judge acts ministerially and not judicially.—*Id.* Judge not liable if not negligent and harm arises from unforeseen causes.—*Id.* Where the bond is void and for an insufficient amount, the damages will not be limited to that amount.—Wilson v. Waterman, 6 Rich. Eq., 255. Bond may be sued in name of Judge of Probate.—Johnson v. Dawkins, 20 S. C., 532.

Sureties may petition for relief when in danger of loss.

Civ. '02, § 2520.

Sec. 3287. It shall be the duty of the Judge of Probate in whose office an administration bond is lodged, upon a petition filed by any of the sureties to the same who conceive themselves in danger of being injured by such suretyship, to summon the administrator before him, and make such order or decree, for the relief of the petitioner, as may not impair or affect the rights of the parties interested in the estate.

Not necessary that accounting be had and letters revoked before relief of surety; the surety remains liable for property in hands of his principal at time of discharge, but not for property subsequently coming into his hands.—Hall v. Hall, 45 S. C., 166; 22 S. E., 818.

Surety may be relieved on his own motion and without proof of danger.—*McKay v. Donald*, 8 Rich., 331. Court may require new bond with additional sureties or revoke administration.—*Owens v. Walker*, 2 Strob. Eq., 280; *Ordinary v. Bigham*, 3 Hill, 512; *Ordinary v. Wallace*, 11 Rich., 597; *Gilliam v. McKunkin*, 2 S. C., 442. If relief is granted by revoking administration, the sureties are still liable for default before that time.—*Shelton v. Cureton*, 3 McC., 412. But if granted by requiring new bond, it is primary security for amount fixed by accounting.—*Bobo v. Valden*, 20 S. C., 279; *Ordinary v. Trail*, 2 Ball., 480; *Ordinary v. Bigham*, 3 Hill, 512. But if same administrator is appointed administrator *de bonis non*, and his accounts are fixed, that discharges the sureties.—*Ordinary v. Trail*, 2 Ball., 480; *Ericks v. Howell*, 2 Strob. Eq., 196. No money decree can be given against the administrator.—*Gilliam v. McKunkin*, 2 S. C., 442.

Sec. 3288. If a person applying for letters of administration on the estate and effects of any person deceased will make it appear, upon oath, that such deceased person had made a will, which cannot be proved by such person or persons so applying, and that such person or persons applying for such administration verily believes or believe the said will to be lost or destroyed, together with the causes and reasons for such belief, it shall be the duty of the Judge of Probate to whom such application is made to grant letters of administration to the person or persons applying for the same, during such time as the said last will and testament shall be lost, and until the same shall be found and duly proved: *Provided*, That all such oaths as are required in this Section shall be in writing, subscribed by the party to be sworn, administered by the Judge of Probate, and filed and recorded by him.

Proceedings on alleged loss or destruction of a will.

Civ. '02, § 2521.

Sec. 3289. The executor or administrator of any executor or administrator of right, who may waste or convert to his use the goods or estate of his testator or intestate, shall be liable and chargeable in the same manner as their testator or intestate would have been if he had been living.

Executors of executors liable for wrongful conversion of goods.

Civ. '02, § 2522.

Sec. 3290. Whenever it shall come to the knowledge of the Clerk of any Court of the Court of Common Pleas of any County in this State that the estate and effects of any deceased person, as to which administration could legally be granted by the Judge of Probate of his County, remain unadministered for the period of six months, entirely or partially, unadministered, either by reason of no application, for letters of administration, or from any other cause, so that there is no legally appointed representative of such deceased person, it shall be the duty of such Clerk of the Court to make application to the Judge of Probate of the County for letters of

Clerk of the Court to make application for administration of decedent's estates; liable on official bond.

Civ. '02, § 2523.

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administration on the estate of such deceased person, accompanied with a statement of the nature, condition, and value of the said estate, so far as it may be known to him, and thereupon, it shall be the duty of such Judge of Probate to insert a notice of such application, in the usual form, for forty days, in some public newspaper published in such County, or, if there be none such, in some adjoining County, and also at the door of the court house, and, after such notice, to grant to such Clerk of the Court letters of administration on the estate of such deceased person, with the will annexed, in case there be a will, and the Clerk shall be held liable, on his official bond, for the faithful discharge of his duties as such administrator.

Failure to publish notice for forty days a jurisdictional defect.—*Hartley v. Glover*, 56 S. C., 69; 83 S. E., 796; *Hendrix v. Holden*, 58 S. C., 495; 36 S. E., 1021. Heirs and distributees cannot acquire title to personal assets as to collect same without administration.—*Darwin v. Moore*, 58 S. C., 164; 36 S. E., 589; *Bradford v. Felder*, 2 McC. Ch., 168; *Pickens v. Bryant*, 4 S. C., 17; 22 S. E., 753; *Richardson v. Cooley*, 20 S. C., 347; *Elders v. Vautess*, 4 DeS., 155. See also *Haley v. Thomas*, 30 S. C., 270; 9 S. E., 11. Nor can suit be brought by creditors until administration by some one.—*Screven v. Bostick*, 2 McC. Ch., 410.

When sole distributee may collect assets without administration.—*Gray v. Poyas*, 62 S. C., 426; 40 S. E., 891.

Trustees may pay for surety bond out of trust funds.

Sec. 3291. Any person appointed executor, administrator, guardian, receiver, trustee, or to act in any fiduciary capacity, who is required by law to give bond, and who gives bond signed by any surety company authorized to do business in this State, and which bond is approved, shall be allowed and may include as part of his expenses a reasonable sum paid to such company as a premium for signing such bond, the reasonableness to be passed upon by the Court or officer that passes upon the sufficiency of the bond: *Provided*, That in no case shall the premium amount to more than one per cent. of the penalty of the bond.

To transmit administrations to successors.

Civ. '02, § 2524.

Sec. 3292. All administrators of derelict estates heretofore granted to Clerks of the Court of Common Pleas, or that may hereafter be granted to them, under the preceding Section, shall be transmitted to the successors in office of such said Clerks, by virtue of such succession in office, without new application on the part of such successor in office, and without further order of the Court of Probate making the original grant of administration.

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Sec. 3293. All acts done by such said successors in office of the said Clerks of the Court, not inconsistent with the duty of administrators, are hereby ratified and affirmed, and made of the same force and effect as if done by the Clerks of the Court originally appointed to administer such said estate.

Acts of successors valid.

Civ. '02, § 2525.

Sec. 3294. It shall be the duty of all outgoing Clerks of the Court of Common Pleas to turn over to their successors in office all property, choses in action, money, and other assets of such said estates in their hands; and such successors shall have the right to compel the performance of that duty by proceedings for that purpose in the Court of Probate having jurisdiction of the particular estate.

To turn over to successors all moneys, &c., belonging to such estates.

Civ. '02, § 2526.

Sec. 3295. Any person who shall obtain, receive, and have any goods or debts of any person dying intestate, or a release or other discharge of any debt or duty that belonged to the intestate, upon any fraud, or without such valuable consideration as shall amount to the value of the same goods or debts, or near thereabouts, (except it be in or towards satisfaction of some just and principal debt of the value of the same goods or debts to him owing by the intestate at the time of his decease,) shall be charged and chargeable as executor of his own wrong, so far as such goods and debts coming to his hands, or whereof he is released or discharged by such administrator, will satisfy, deducting, nevertheless, and for himself, allowance of all just, due, and principal debts upon good consideration, without fraud, owing to him by the intestate at the time of his decease, and of all other claims made by him which lawful executors or administrators may and ought to have and pay by the laws and customs of this State.

In what cases a person shall be charged as executor in his own wrong.

Civ. '02, § 2527.

That will make an executor *de son tort*.—Lloyd v. Cannon, 2 DeS., 232; Hill v. Smith, 2 McC., 516; Givens v. Higgins, 4 McC., 286; Johnson v. Gers, Harp., 6; Leach v. House, 1 Ball., 42; Tucker v. Williams, Dud., Salvo v. Schmidt, 2 Speer, 512; Carter v. Robbins, 8 Rich., 29; Frierson v. Estberry, 11 Rich., 353; Cook v. Sanders, 15 Rich., 63; Haley v. Thames, 15 S. C., 270; 9 S. E., 110; *Ex parte* DeVaga, 31 S. C., 413; 10 S. E., 72. Chargeable with assets in hand, not with those not reduced to possession.—Kinard v. Young, 2 Rich. Eq., 247; Cook v. Sanders, 15 S. C., 63. His release to pay debt of deceased not binding.—Haseldon v. Whitesides, 2 Rich., 353. Must be sued as executor.—Gregory v. Forrester, 1 McC. Ch., 1. May plead *plene administravit*.—Leach v. House, 1 Ball., 42; Cook v. Gers, 15 S. C., 63. But if he only denies such character he will be liable with whole debt sued.—Hubbell v. Fogartie, 1 Hill, 167. Judgment against him binds when he becomes administrator.—Walker v. May, 2 Hill,

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22. But cannot be levied on lands of testator.—*Warren v. Raymond*, 1 S. C., 191. Does not arrest Statute of Limitations.—*Bolt v. Dawkins*, 1 S. C., 211. Payment to trustee appointed by heirs and distributees.—*Pickens v. Bryant*, 45 S. C., 17; 22 S. E., 753.

Executors in their own wrong deemed trespassers, and may be required to make discovery, &c.

Civ. '02, § 2528.

Sec. 3296. The Judge of Probate of the County in which a deceased person may have died shall have power (either of his own accord, or at the instance of any creditor or other person interested in the estate of the deceased,) to cite before him such person or persons, as neither being appointed executor nor having obtained administration of the effects of such deceased person, shall, nevertheless, possess himself or themselves of the goods and chattels, rights and credits of such person deceased; and, upon such person or persons being cited as aforesaid, the Judge of Probate shall require of him or them a discovery and account of all and singular the goods and chattels, rights and credits of the deceased, and shall proceed to decree against him or them for the value of the estate and effects of the deceased, which he or they may have wasted, or which may have been lost by his or their illegal interference, charging them as executors of their own wrong, are made liable at common law, as far as assets shall have come into their hands.

Haley v. Thames, 80 S. C., 270; 9 S. E., 110; *Ex parte Devaga*, 31 S. C. 413; 10 S. E., 72.

Liability of executors of executors in their own wrong.

Civ. '02, § 2529.

Sec. 3297. Every executor and administrator of any person or persons who, as executor in his own wrong, or administrator, shall waste or convert any goods, chattels, estate, or assets of any person deceased, to his own use, shall be liable and chargeable in the same manner as their testator or intestate would have been if he had been living.

When executor may pay fund going to legatee and be discharged from liability therefor.

Civ. '02, § 2530.

Sec. 3298. If, after the expiration of two years from the time when any legacy becomes due and payable under any will or testament, it shall be made to appear to the satisfaction of the Judge of the Court of Probate by whom letters testamentary were granted that the executor or executors of such will or testament, or the administrator or administrators with such will or testament annexed, is or are unable to ascertain the whereabouts of any legatee under such will or testament, or to ascertain whether such legatee be dead or not, it shall be lawful for the executor or executors, or administrator or administrators with the will annexed,

y over to the Judge of said Court of Probate the amount the legacy of such legatee and any interest that may be gally due thereon, and such payment of the amount of such racy to the Judge of the said Court of Probate shall be a ll and complete discharge to the executor or executors, the administrator or administrators, with the will nexed. The said amount so paid to the Judge of the said urt of Probate shall be protected by his official bond, and ll be held by such Court of Probate for such legatee, sub- t to the order of such Probate Court or any other Court competent jurisdiction.

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CHAPTER LXXI.

Of Inventories and Appraisements.

Sec.

3299. Inventory and appraisement to be made upon probate of will or application for administration.

3300. Appraisement to be made in each County where goods are.

Sec.

3301. Appraisement evidence to prove value.

3302. Pay of appraisers.

3303. No person to act as appraiser until sworn; oath.

Inventory and appraisement to be made upon probate of will or application for administration.

Civ. '02, § 2531. 1902, XXIII, 1065.

Section 3299. Where a will is proved, or application is made for administration of the estates of a person dying intestate, the Judge of Probate of the County shall require the executors or administrators to make out an exact inventory of the personal estate of the deceased, and shall appoint three or more respectable qualified electors to appraise the same on oath, which inventory and appraisement shall be returned into his office within such time as he shall limit.

Omission to insert property in inventory is breach of bond.—Ordinary v. Geiger, 1 Brev., 484. Administrator's own debt is assets in his hand.—Schnell v. Schroder, Bail. Eq., 334. But if note out of date, putting it in inventory does not renew the debt.—Black v. White, 13 S. C., 37. Life tenant who is executrix not bound to return inventory.—Brooks v. Brooks, 12 S. C., 462.

Appraisement to be made in each County where goods are.

Civ. '02, § 2532.

Sec. 3300. If the goods be in several Counties, the judge of Probate of such Counties respectively shall order appraisement and appoint appraisers in each, which appraisement, when made, shall be returned by the appraisers into the office of the Judge of Probate where the will is recorded, or by whom administration is granted.

Appraisement evidence to prove value.

Civ. '02, § 2533.

Sec. 3301. Every appraisement made as aforesaid may be given in evidence in any legal proceedings against such executors and administrators to prove the value of the estate, but shall not be conclusive if it shall appear upon a trial of the cause that the estate was really worth or *bona fide* sold for more or less than such appraisement.

Appraisement as evidence.—Epperson v. Jackson, 83 S. C., 151; 65 S. L. 217.

Sec. 3302. Upon the settlement of their accounts by executors and administrators, it shall be the duty of the Judge of Probate to allow them the sum of one dollar per day for the expense of every appraiser during the time that he is proved to have been employed in appraising the estate of the testator or intestate.

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Pay of appraisers.

Civ. '02, § 2534.

Sec. 3303. No appraisers appointed to appraise any testator's or intestate's goods and chattels shall enter upon that office before they shall have taken the following oath before the Judge of Probate of the County, or before any officer authorized by law to administer an oath, who is hereby empowered to administer the same:

No person to act as appraiser until sworn.

Civ. '02, § 2535. 1904, XXIV, 441.

"You, A. B., C. D., E. F., &c., do swear that you will make a just and true appraisement of all and singular the goods and chattels (ready money, only, excepted) of G. H., deceased, as shall be produced by J. K., the executor or administrator of the estate of the said G. H., deceased, and that you will return the same, certified under your hands, to the Judge of Probate of _____ County within the time prescribed by law."

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CHAPTER LXXII.

Payments of Debts and Legacies.

ARTICLE 1. Payment of Debts and Legacies.

ARTICLE 2. Sale of Land in Aid of Deficient Personal Assets, to Pay Debts.

ARTICLE I.

PAYMENT OF DEBTS AND LEGACIES.

Sec.

3304. Executors, &c., to publish notice to creditors to render demands, how; time allowed for ascertaining debts.

3305. Creditor neglecting to render, executor not liable.

3306. Order of payment of debts; no preference of creditors in equal degree.

Sec.

3307. Crops to be assessed, when

3308. Emblements, when assets, and when to pass with lands.

3309. Effects of deceased non-residents liable for debts to debtors as upon specialty.

3310. When and how demands may be compromised.

Section 3304. Every executor or administrator shall give three weeks' notice, by advertisement in one of the gazettes printed in the County, or if there be none, in some gazette of general circulation in the County, for creditors of the estate in his charge to render an account of their demands, duly attested, and he shall be allowed twelve months to ascertain the debts due from the deceased, reckoning from probate of will or grant of administration.

Executors and administrators to give notice to creditors to render accounts; debts to be ascertained in a year.

Civ. '02, § 2536.

Time sufficient in absence of special difficulty.—Lowman v. Lowman, 69 S. C., 543; 48 S. E., 536. Cited in Galloway v. Galloway, 76 S. C., 524; 57 S. E., 528.

Sec. 3305. If any creditor shall neglect to give in a statement of his debts within the time aforesaid, the executors or administrators shall not be liable to make good the same.

If creditor fail to render account, executors or administrators not liable.

Civ. '02, § 2537.

Nicholson v. Whitlock, 57 S. C., 36; 35 S. E., 412; Miller v. Mitchell, Ball. Eq., 437; Walker v. Gill, 2 Ball., 105; Sebring v. Keith, 2 Hill, 340; Lester v. Witte, 5 S. C., 450; Lanier v. Griffin, 11 S. C., 155; Crane v. Moses, 11 S. C., 578; Willingham, v. Chick, 14 S. C., 99.

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Sec. §306. The assets which come to the hands of an executor or administrator, after proper allowance to the executor or administrator, in a due course of administration, shall be applied to the payment of his debts in the following order, that is to say:

Order of payment of debts.
No preference of creditors in equal degree.

Civ. '02, § 2538.

1. Funeral and other expenses of the last sickness, charges of probate, or letters of administration.

2. Debts due to the public.

3. Judgments, mortgages, and executions—the oldest first.

4. Rent.

5. Bonds, debts by specialty, and debts by simple contract.

Mortgages, however, not to be entitled to priority over judgments and debts by specialty or by simple contract, except as to the particular parts of the estate affected by the liens of such mortgages.

No preference shall be given among the creditors in equal degree, where there is a deficiency of assets, except according to legal priorities.

Rank determined at death.—*Hutchinson v. Bates*, 1 Ball., 11; *Tucker v. Condy*, 7 Rich. Eq., 281; *Morton v. Caldwell*, 3 Strob. Eq., 161; *Wilson v. Connell*, 9 Rich. Eq., 500; *Frazer v. City Council*, 23 S. C., 381. Nursing included in expenses of last illness.—*McVoy v. Percival*, Dud., 337. No rule as to duration of last illness.—*Id.* This provision to be construed liberally.—

Administrator cannot pay attorney's fees in prosecution of slayer of estate.—*Woodward v. Woodward*, 36 S. C., 118; 15 S. E., 355. State tax mortgage does not lose its priority.—*Lenoir v. Winn*, 4 DeS., 65. Debt on County Treasurer's bond is a debt due to the public.—*Baxter v. Carter*, 23 S. C., 118. Judgments mean final judgments.—*Thomas v. McCreedy*, 3 Strob., 131; *Ex parte Farrars*, 13 S. C., 259. Foreign judgment is only as simple contract.—*Cameron v. Wortz*, 4 McC., 278. Mortgage on chattels is embraced in mortgages.—*Edwards v. Sanders*, 6 S. C., 316. Mortgage only ranks as such to extent of its specific lien.—*Plester v. Plester*, 3 S. C., 146; *McLure v. Melton*, 24 S. C., 566; *Ex parte Hardin*, 34 S. C., 13; 13 S. E., 615. Its *pro rata* beyond that is the unpaid balance of the debt.—*Wheat v. Dingle*, 32 S. C., 473; 11 S. E., 394. Rent does not mean rent for any prescribed period, and immaterial whether by parol or specialty.—*Wappell v. Brown*, 1 Ball., 528. Bonds and specialty debts prior to March 1874, retain preference over bonds, specialty debts and simple contract debts since then.—*Heath v. Belk*, 12 S. C., 582. Order not disturbed by judgments against executor or administrator.—*Hutchinson v. Bates*, 11 Ball., 111; *Tucker v. Condy*, 7 Rich. Eq., 281. Executor or administrator paying debts out of legal order, liable to creditors.—*Lenoir v. Winn*, 4 DeS., 65. Administrator or executor may retain funds to pay his debt, though not in preference to debts of lower rank.—*Ralph v. Gist*, 4 McC., 267. But so as to one barred at death.—*Cooper v. Peyton*, Rich. Eq. Ca., 259. Administrator may retain for his whole debt against creditor who has not rendered in claim.—*Sebring v. Keith*, 2 Hill, 340. Act directory, intended for protection of administrator or executor.—*Huger v. Dawson*, 3 Rich., 328. It directs general assets according to the rank of the debt; it does not deal with specific liens.—*Rutledge v. Rutledge*, 1 McC. Ch., 471; *Keckley v. Keckley*, 2 Hill, 257; *Haynesworth v. Frierson*, 11 Rich., 476; *Edwards v. Sanders*, 6

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S. C., 316; *Shell v. Young*, 32 S. C., 462; 11 S. E., 299. Funeral expenses and expenses of last illness to be paid before judgment recovered in lifetime of deceased.—*DeLoach v. Sarratt*, 58 S. C., 117; 36 S. E., 533. Nothing in Constitution to prevent legislative change in order of payment of debts.—*McLure v. Melton*, 24 S. C., 568. Distribution of funds, right to follow.—*Wulbern v. Timmons*, 55 S. C., 456; 33 S. E., 568.

Crops to be assets.

Civ. '02, § 2539.

Sec. 3307. If any person shall die after the first day of March in any year, the crop on the lands which were in the occupation of the deceased shall be assets in the executors' or administrators' hands, subject to debts, legacies, and distribution, the taxes and expenses of cultivation of such crop being first paid.

Berry v. Berry, 55 S. C., 308; 33 S. E., 363; *State v. Hogan*, 2 Brev., 437; *Wharley v. Wharley*, Ball. Eq., 397; *Waring v. Purcell*, 1 Hill Ch., 193; *Freeman v. Tompkins*, 1 Strob. Eq., 53; *Gage v. Rogers*, 1 Strob. Eq., 370; *McLaurin v. McCall*, 3 Strob., 21; *Huff v. Latimer*, 33 S. C., 255; 11 S. E., 731.

Judgment having lost active energy, but twenty years not elapsed, will operate as judgment against estate of debtor.—*Ex parte Goldsmith*, 68 S. C. 528; 47 S. E., 984. One who provides the reasonable funeral expenses of deceased is entitled to recover them back from his estate as money justly due on a quasi contract, which the law implies and imputes to the personal representatives on the ground that the administrator or executor is bound under the law to provide a decent funeral from the assets of the estate.—*Waters v. Register*, 76 S. C., 132; 56 S. E., 849. Judgment for bill for non-resident, unlicensed physician.—*Parks v. McDaniel*, 75 S. C., 7; 54 S. E. 801.

When emblements shall be assets, and when pass with lands.

Civ. '02, § 2540.

Sec. 3308. The emblements of such lands which shall be severed before the last day of December following, shall, in like manner, be assets in the hands of the executors or administrators; but all such emblements growing on the lands on that day, or at the time of the testator's or intestate's death, if that happens after the said last day of December and before the first day of March, shall pass with the lands.

Effects of deceased non-residents liable for debts to citizens as upon specialty.

Civ. '02, § 2541.

Sec. 3309. Where any person not a citizen of this State has died, or shall die, already indebted to a citizen of this State, the assets and effects within the same, of such deceased person, being sufficient for the payment of all his debts, shall be liable to discharge the debts due the citizens of the State, in the same manner as if the same had been liquidated by bond or other specialty; any law, usage, or custom to the contrary notwithstanding.

Administrators, &c., may compromise demands.

Civ. '02, § 2542.

Sec. 3310. All administrators and executors may, by and with the consent of the Probate Judge, compromise all demands coming into their hands as such, where the same are appraised doubtful or worthless; and where such com-

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promises are made, the same shall be fully shown in their annual returns.

Does not apply to debts contracted with executor or administrator.—*Geiger v. Kalgler*, 9 S. C., 401.

ARTICLE II.

SALE OF LAND IN AID OF DEFICIENT PERSONAL ASSETS TO PAY DEBTS.

Sec.

3311. If assets are insufficient to pay debts, real estate to be sold and proceeds applied.

3312. Executor or administrator to give bond for due administration of fund.

3313. Proceeds of sale to be paid upon petition of creditors; proviso.

3314. Upon such application, executor or administrator to account for assets.

3315. Heirs or devisees to be summoned; form of summons.

Sec.

3316. Service of copy; proviso.

3317. Non-residents to be served by publication; if assets insufficient, proceeds of sale, or so much as necessary, to be paid to executor or administrator.

3318. Full record to be kept, &c.

3319. Fee of Probate Judge; how paid.

3320. Sheriff to serve process; fees of.

3321. Sheriff's costs, how collected.

The order for sale is binding on all parties to the proceedings and destroys their right to claim homestead in the land sold.—*Culler v. Crim*, 52 S. C., 4; 80 S. E., 685.

Section 3311. The Judges of Probate of the several Counties in this State shall have power, if the personal estate of any intestate, testator, or testatrix, in the hands of the administrators or executors, or if the assets set apart by a last will and testament, be insufficient to pay the debts of the deceased, to pay over to the administrators or executors of each estate the whole or so much of the proceeds of the sale of the real estate of the deceased, sold by them, the said Judges, as will pay the outstanding debts of the deceased; and the administrators or executors receiving the same shall be chargeable therewith as with other assets which have come into their possession in the regular course of administration.

If assets are insufficient to pay debts, real estate to be sold and proceeds applied.

Civ. '02, § 2548.

McNamee v. Waterbury, 4 S. C., 156; *Suber v. Allen*, 18 S. C., 317; *Scruggs v. Foote*, 19 S. C., 274.

Dyson v. Jones, 65 S. C., 157; 65 S. E., 217.

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Executors or administrators to give bond for faithful administration of funds arising from such sale.

Civ. '02, § 2544.

Sec. 3312. Before paying over to any executors or administrators any moneys arising from the sale of real estate, as provided and directed in the preceding Section, Judges of Probate shall require the said administrators or executors to enter into bond, with good and sufficient surety, payable to the Probate Judge, and in a penal sum equal to double the amount to be paid over, the condition of which bond shall be the just and faithful administration of the fund according to law.

Suber v. Allen, 13 S. C., 317.

Moneys arising from sale to be paid upon petition of creditors; proviso.

Civ. '02, § 2545.

Sec. 3313. On application by a creditor or creditors of the deceased, by petition in writing, stating the indebtedness of the deceased, the deficiency of assets, and praying that the proceeds of the sale of real estate of the deceased may be paid over to the executor or administrator, (as the case may be,) and applied to the satisfaction of the debts of the deceased, the Probate Judge shall pay over to the executor or administrator, taking bond and surety, as provided by this Chapter, such proceeds, or so much thereof as shall be necessary: *Provided*, The heirs at law, or devisees, shall have notice thereof and be required to show cause, if any they can, to the contrary.

But not *Ex parte* application of administrator.—*Ex parte* Foster, Rice Eq. 19.

Upon such application, executor or administrator to account for assets.

Civ. '02, § 2546.

Sec. 3314. The Probate Judge shall, on such application, forthwith cite the executor or administrator to appear and account for the assets of the deceased, if such accounting has not been previously had.

Heirs or devisees to be summoned; form of summons.

Civ. '02, § 2547.

Sec. 3315. He shall also summon the heirs at law, or devisees, of the deceased, as the case may be. The form of the summons shall be as follows:

"To A B and C D, heirs at law of E F (or devisees) of E F:
 "You are hereby required to appear at the Court of Probate, to be holden at Court House, for County, on the day of, Anno Domini, to show cause, if any you can, why the proceeds of the sale of the real estate of E F, deceased, sold by me should not be paid over to G H, executor (or administrator) of the said E F, to be applied by him to the payment of the debts of the said E. F.

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"Given under my hand and seal, this day of
A. D.

(Signed)

"I K, [L. s.]

"Probate Judge of County."

Epperson v. Jackson, 83 S. C., 157; 45 S. E., 217.

Sec. 3316. A copy of the said summons shall be served on the parties interested, in like manner as summonses are served in civil actions in the Circuit Courts; and if there be minors, the Probate Judge shall appoint guardians *ad litem*, who shall be served with a copy of such summons, and the appointment and acceptance of such guardianship shall be endorsed on the petition: *Provided*, That nothing herein contained shall preclude any of the parties from accepting the service of such summons, or from consenting to the application of the funds as prayed for in such petition.

Service of
copy; proviso.Civ. '02, §
2548.

Proceedings prior to adoption of Code of Civil Procedure.—Rollins v. Brown, 37 S. C., 347; 16 S. E., 44.

Sec. 3317. If any of the parties reside beyond the limits of this State, or whose residence is unknown, and do not consent, in writing, that the funds be so applied, the Probate Judge shall advertise for his, or her, or their appearance, by publication of the summons as provided by Section 156 of the Code of Procedure; and if such party shall not appear and show sufficient cause, within the time named in the said summons, then the Judge of Probate shall enter of record his, her, or their consent as confessed, and shall take an account of the executor or administrator relative to the assets of the estate of the deceased; and if he shall be satisfied that they are insufficient to pay the debts thereof, of which he shall make an exhibit in the said account, he shall pay over to the executor or administrator the whole or so much of the proceeds of the sale of the real estate in his hands as may be necessary to pay the debts of the said deceased.

Citation of
non residents
to be by pub-
lication; if as-
sets are insuf-
ficient, suf-
ficient of pro-
ceeds of sale
to be applied.Civ. '02, §
2549.

Sale without order for sale void.—Hunter v. Hunter, 58 S. C., 382; 36 E., 734.

Sec. 3318. The Probate Judge shall file and keep in his office the petition and all the papers connected therewith, and shall enter in his cash book the amount abstracted

Full records
to be kept.Civ. '02, §
2550.

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from the sale of the real estate, and paid over to the executor or administrator, after deducting all costs; and the balance remaining in his hands, if any, shall be disposed of as provided by law.

Fee of Probate Judge.

Civ. '02, § 2551.

Sec. 3319. The Probate Judge shall receive for his services required by Sections 3311 to 3319 inclusive, of this Chapter, the sum of five dollars, and no more, out of the proceeds of the sale of the real estate of the deceased, unless the application be refused or rejected by the Probate Judge, in which case the same shall be paid by the petitioner or petitioners, and the Probate Judge is empowered to enforce execution against him or them for the same.

Sheriff to execute process: fees.

Civ. '02, § 2552.

Sec. 3320. The Sheriffs of the several Counties in this State are required to serve all processes which may be issued by the Probate Judge under the provisions of Sections 3314 to 3317 inclusive, of this Chapter, for which they shall receive the same fees as are allowed them by law for similar services.

Sheriff's costs, how collected.

Civ. '02, § 2553.

Sec. 3321. The Sheriff's costs shall be paid out of the proceeds of the sale of the real estate of the deceased, or by the petitioner or petitioners, as provided for in Section 3321 of this Chapter.

CHAPTER LXXIII.

Accounts and Commissions of Executors and Administrators.

Sec.

3322. Executors and administrators to account to Probate Judge annually.

3323. Duty of Probate Judge; penalty for default in making returns.

3324. No administrator to account otherwise than by inventory, except to persons interested.

3325. Judge of Probate may cite executors, &c., removing, &c.

Sec.

3326. Upon default, &c., letters testamentary or of administration to be revoked.

3327. Commissions.

3328. Action of additional compensation; when may be brought.

3329. Apportionment of commissions; when and how.

3330. When commissions allowed estate of deceased executor or administrator.

Section 3322. Executors or administrators shall annually, while any estate remains in their care or custody, at any time before the first day of July of each year, render to the Judge of Probate of the County from whom they obtained letters testamentary or letters of administration a just and true account, upon oath, of the receipts and expenditures of such estate the preceding calendar year, which, when examined and approved, shall be deposited with the inventory and appraisement, or other papers belonging to such estate, in the office of said Judge of Probate, there to be kept for the inspection of such persons as may be interested in the state.

Executors and administrators to make returns; when and to whom.

Civ. '02, § 2555.

If any executor or administrator should neglect to render such annual accounts he shall not be entitled to any commissions for his trouble in the management of the said estate, and shall moreover be liable to be sued for damages by any person or persons interested in such estate.

Logan v. Logan, 1 McC. Ch., 1; *Wright v. Wright*, 2 McC. Ch., 196; *Lewis Price*, 3 Rich. Eq., 172; *Koon v. Munroe*, 11 S. C., 141; *Johnson v. Hennen*, 11 S. C., 93; *McGougan v. Hall*, 21 S. C., 601. Mode of stating account. *Cunningham v. Cauthen*, 37 S. C., 124; 15 S. E., 917. *Epperson v. Jackson*, 83 S. C., 157; 65 S. E., 217.

Sec. 3323. When an administrator or executor, appointed by the Judge of Probate, shall neglect to make his annual return within the time prescribed in Section 3322 of this chapter, it shall be the duty of the Judge of Probate forth-

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Duty of Probate Judge.
Penalty for default in making returns.

Civ. '02, § 2556.

with to cite him or her so to do; and upon his or her neglect or refusal to render such account within twenty days from the service of the said citation, such defaulter shall be adjudged in contempt, and the Judge of Probate is empowered and required to issue his attachment against such defaulter, and he or she shall purge such contempt by rendering such account. Such defaulter shall be fined in a sum not exceeding twenty dollars (\$20) for each and every day during which such default may continue. And in case of such recusant administrator, he may further revoke the letters of administration: *Provided*, That upon good and sufficient cause shown before such Judge of Probate, he may excuse the omission on the part of such executor and administrator to make the return required in this Chapter within the time herein limited, and the said Judge of Probate may give to such executor or administrator so in default a reasonable time within which to file his return, not exceeding sixty days.

No administrator to account otherwise than by inventory, except to persons interested.

Civ. '02, § 2557.

Sec. 3324. No administrator shall be cited to render an account of the personal estate of his intestate (otherwise than by an inventory or inventories thereof) unless it be at the instance of prosecution of some person or persons in behalf of a minor, or having a demand out of such personal estate as a creditor or next of kin, nor be compellable to account otherwise than is herein provided.

Judge of Probate may cite executors, &c., removing.

Civ. '02, § 2558.

Sec. 3325. When any executor or administrator has, since the grant of letters testamentary or of administration, or any trustee, guardian of minors, committee of lunatics and persons *non compos mentis*, changed his domicile to a place beyond the limits of this State, or has been absent from the State for ten consecutive months then last past, and such change or absence is made to appear to the satisfaction of the Judge of Probate of the County wherein the letters were granted or appointment made, it shall be the duty of such Judge of Probate to cite such executor or administrator, trustee, guardian of minors, committee of lunatic and persons *non compos mentis*, to account in person before him on a day named in the citation, which shall not be less than sixty days from the date thereof; and such citation shall be served upon such absent executor or administrator, trustee, guardian of minors, committee of lunatics and

persons *non compos mentis*, by publication forthwith, once week for four weeks, in the newspaper in which the said judge of Probate publishes his official advertisements, and copy shall be mailed to such absent executor or administrator, trustee, guardian of minors, committee of lunatics and persons *non compos mentis*, at his or her or their place of residence, if it is known or can with reasonable diligence be ascertained.

Letters should not be granted a non-resident of the State.—Burkhim v. Markusohn, 58 S. C., 469; 36 S. E., 908.

Sec. 3326. If, upon such citation, such absent executor or administrator, trustee, guardian of minors, committee of lunatics and persons *non compos mentis*, fail to appear in person upon the day named and render a return of his administration up to date, or, appearing by attorney, fail to disprove a change of domicile and continuous absence for six months next preceding the date of citation, in the case of an administrator, the letters of administration shall be revoked; and in the case of an executor, such failure shall be received as a formal renunciation of the office, notwithstanding his previous acceptance; and in case of any trustee, committee, or guardian, the appointment shall be revoked and annulled.

When letters of administration shall be revoked.

Civ. '02, § 2559.

Sec. 3327. Every executor or administrator shall, for his, her, or their care, trouble, and attendance, in the execution of their several duties, take, receive, or retain in his, her, or their hands, a sum not exceeding the sum of two dollars and fifty cents for every hundred dollars which he, she, or they shall receive, and the sum of two dollars and fifty cents for every hundred dollars which he, she, or they shall pay away, for credits, debts, legacies, or otherwise, during the course of the continuance of their or either of their managements or administrations, and so in proportion for any sum or sums less than one hundred dollars: *Provided*, That no executor or administrator shall, for his, her, or their trouble in letting out any moneys upon interest, and again receiving the same, be entitled to take or retain any sum exceeding ten per cent for every hundred dollars for all sums arising by moneys let out to interest, and in like proportion for a larger or lesser sum; nor shall any executors or administrators who are creditors of any testator or intestate, or to whom

Commissioners.

Civ. '02, § 2560.

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any sum of money or other estate may be bequeathed, be entitled to any commissions for paying or retaining to themselves any such debts or legacies.

Jenkins v. Fickling, 4 DeS., 369; Benson v. Bruce, 4 DeS., 463; Jones v. Blakely, 2 McC. Ch., 1; Wright v. Wright, 2 McC. Ch., 185; Deas v. Sparr, Harp. Eq., 176; Kiddle v. Hammond, Harp. Eq., 223; Edmunds v. Crenshaw, Harp. Eq., 224; Burns v. Ford, 1 Ball., 507; Ball v. Brown, Ball. Eq., 514; Corbin v. Jones, Rich. Eq. Ca., 52; Howard v. Schmidt, Rich. Eq. Ca., 432; Frazier v. Vaux, 1 Hill Ch., 203; Brown v. McCall, 3 Hill, 335; Massey v. Massey, 2 Hill Ch., 492; Vance v. Gary, Rice Eq., 2; *Ex parte* Commissioners, 3 Rich. Eq., 13; Griffin v. Bonham, 9 Rich. Eq., 71; Bobo v. Poole, 12 Rich. Eq., 224; Koon v. Munroe, 11 S. C., 139; Brooks v. Brooks, 12 S. C., 44; Davidson v. Moore, 14 S. C., 251; Tompkins v. Tompkins, 18 S. C., 29; McGougan v. Hall, 21 S. C., 601; Roberts v. Johns, 24 S. C., 589; Woodward v. Woodward, 36 S. C., 118; 15 S. E., 355; Cobb v. Fant, 36 S. C., 1; 14 S. E., 959; Turnipseed v. Sirrine, 60 S. C., 272; 38 S. E., 423; Tucker v. Richards, 58 S. C., 22; 36 S. E., 3; DeLoach v. Sarratt, 58 S. C., 117; 36 S. E., 532; Cunningham v. Cauthen, 44 S. C., 95; 21 S. E., 800; Jones v. Jones, 39 S. C., 247; 17 S. E., 587.

Administrator not entitled to commissions on estate bequeathed to him.—*Ex parte* Hilton, 64 S. C., 201; 41 S. E., 978. Amount of commissions.—Cunningham v. Cunningham, 81 S. C., 506; 62 S. E., 845. Extra compensation.—Anderson v. Silcox, 82 S. C., 109; 63 S. E., 128.

Executors not satisfied may bring action for additional compensation.

Civ. '02, § 2561.

Sec. 3328. Any executors or administrators, who shall have had extrarodinary trouble in the management of the estates under their care, and shall not be satisfied with the sums hereinbefore mentioned, may be at liberty to bring an action in the Court of Common Pleas for their services; and the verdict of the jury and judgment of the Court thereupon shall be final and conclusive in such cases: *Provided always*, That no verdict shall be given for more than five per centum over and above the sums allowed by this Chapter.

Ruff v. Summers, 4 DeS., 529; Logan v. Logan, 1 McC. Ch., 1; Waller v. Ellerbe, Rich. Eq. Ca., 49; Frazier v. Vaux, 1 Hill Ch., 203.

Commissions to be divided according to service.

Civ. '02, § 2562.

Sec. 3329. The commissions given by this Chapter shall be divided amongst executors and administrators in proportion to the services by them respectively performed, to be rated and settled by the Judge of Probate who granted probate of the will or letters of administration, if the executors or administrators cannot agree amongst themselves concerning the same.

Where one or two executors performs all the services he is entitled to the commissions.—*Ex parte* Hilton, 64 S. C., 201; 41 S. E., 978.

Executor, &c., dying, his estate allowed commissions.

Civ. '02, § 2563.

Sec. 3330. When any executor or administrator dies, after having settled the estate of the testator or intestate, except allowed commissions for paying over such legacies or distributees, the estate of such executor or administrator shall be allowed commissions for paying over such legacies or distributive shares, as well as for receiving them.

CHAPTER LXXIV.

Settlement and Distribution of Intestate Estates.

Sec.
3331. No distribution until one year after intestate's death.
3332. Proceedings for distribution where parties are absent and whereabouts unknown, &c.; duty of Probate Judge.
3333. Proof of publication; where filed.
3334. Decrees to be made in default of appearance.

Sec.
3335. If parties appear, further proceedings to be discharged; proviso.
3336. Proceedings on appearance of person claiming as heir, &c., of party advertised for.
3337. Right of absent party not barred if claimed within three years after distribution.

Section 3331. No distribution of the goods of any person dying intestate shall be made till after one year be fully expired after the intestate's death.

No distribution till after one year.

Civ. '02, § 2564.

Pearson v. Charlton, 18 S. C., 55.

Sec. 3332. If, after the expiration of twelve months from the grant of letters of administration on the estate of any person dying intestate, it shall be made to appear to the satisfaction of the Judge of the Court of Probate by which said letters of administration were granted, that the administrator or administrators of such estate are unable to ascertain the whereabouts of any person supposed to be entitled distributee of such estate, or whether any person who, if living, would be entitled as distributee of said estate, be dead or not, and that such person has never been domiciled in this State, it shall be lawful for the said Judge of Probate to issue a citation addressed to all persons interested in said estate as distributees, calling on such person whose whereabouts or the fact of whose death is unknown, his personal representatives or distributees, to be and appear before the said Probate Court on a day and at a certain hour to be specified in said citation, and to show cause why the said administrator or administrators should not be decreed to distribute said estate as if the said person whose whereabouts or the fact of whose death is unknown had died before the said intestate, and notifying all persons entitled to the said estate as distributee or otherwise, to appear on

⁴ Distribution of estates, where parties are absent, &c.

Civ. '02, § 2565.

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the day and at the time so to be appointed, before the said Court to intervene for their interest in said estate. The day fixed in said citation, on which cause shall be shown as aforesaid, shall be the first Monday in the month, and shall not be less than three months after the date of said citation. The said citation shall be published once a week for six successive weeks in one newspaper published in the County in which said Probate Court is held; the first publication of the said citation to be made within ten days after the date thereof: said newspaper to be designated by the said Judge of Probate: *Provided*, The said Judge of Probate shall have right in his discretion, to order such citation to be published once a week for three successive weeks in one other newspaper published in such other place as he shall think most likely to give notice to the parties interested in said estate.

Distributee absent from State for more than seven years before death of intestate presumed to be dead then, and administrator must distribute accordingly.—Burns v. Ford, 1 Ball., 507.

Proof of advertisement to be filed.

Civ. '02, § 2566.

Sec. 3333. The publication of said citation as hereinbefore prescribed shall be proved by filing with the said Judge of Probate copies of the newspapers containing the publication of said citation, and the affidavit of the publisher or printer of the said respective newspapers.

Decree of distribution made, when parties do not appear.

Civ. '02, § 2567.

Sec. 3334. At the time fixed in said citation for cause to be shown as aforesaid, due proof of publication having been made and filed as hereinbefore required, if no person appears as therein required, the said Probate Court shall decree distribution of said estate to be made as if the person whose whereabouts or the fact of whose death is unknown had died before the intestate, and distribution so made by the administrator or administrators shall be a full and complete discharge to the administrator or administrators.

Proceedings discharged if parties appear.

Civ. '02, § 2568.

Sec. 3335. At the time fixed in the said citation for cause to be shown as aforesaid, due proof of publication having been made and filed as hereinbefore required, if the person whose whereabouts or the fact of whose death was unknown shall appear, all further proceedings shall be discharged: *Provided, however*, If the identity of such person so appearing shall be disputed by the administrator or administrators or any distributee of such intestate or the legal representatives of any such distributee, the said Probate Court

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shall proceed to hear and determine the said controversy, and if the same be determined against the said person so appearing, distribution of the said estate shall be made as prescribed in Section 3334 of this Chapter; but if the same be determined in favor of said party so appearing, he shall be held and deemed to be the person whose whereabouts or the fact of whose death was unknown, such determination in either case, however, to be subject to appeal as provided by law in other cases of appeal from the Probate Court.

Sec. 3336. At the expiration of the time fixed in the said citation for cause to be shown as aforesaid, due proof of publication having been made and filed as hereinbefore required, When parties appear after expiration of time. if any person or persons shall appear claiming to be heir, Civ. '02, § 2569. or distributee, or personal representative of the person whose whereabouts or the fact of whose death is unknown, or otherwise entitled to his estate, and claiming a distributive share in the intestate's estate, the said Probate Court shall proceed to hear and determine whether the said person, whose whereabouts or the fact of whose death is unknown, died before or after the intestate, and if the determination be that such person whose whereabouts or the fact of whose death is unknown died before the intestate, distribution of such intestate's estate shall be made accordingly; but if the determination be that the said person whose whereabouts or the fact of whose death is unknown died after the death of the intestate, the said distributive share of such person shall be paid and delivered by the said administrator or administrators to the person or persons legally entitled to receive the same, such determination in either case, however, to be subject to appeal as provided by law in other cases of appeal from the Probate Court.

Sec. 3337. Nothing herein contained shall debar or prevent any such person whose whereabouts was unknown at the time of the distribution of the said estate as aforesaid, Right to distribution not barred within three years. and who shall, within three years after the distribution of Civ. '02, § 2570. the said estate as aforesaid, appear and claim his or her said distributive share as heir at law or distributee, from recovering from the other distributees between whom the said estate has been divided as aforesaid, or any of them, his or

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her said share, or such portion thereof as any such distributee may have received from the said estate, over and above his or her individual share, by reason of the absence of such person whose whereabouts was not known at the time of the said distribution.

Acceptance of dower by widow bars her right to distributive share of estate.—Glover v. Glover, 45 S. C., 51; 22 S. E., 739; Buist v. Dawes, 1 Rich. Eq., 281; Evans v. Pierson, 9 Rich. L., 12.

CHAPTER LXXV.

Liability of Heirs and devisees.

Sec.
3338. Debt upon specialty suable against the heirs and devisees jointly.
3339. Devisees chargeable for false answer.
340. Devise for raising portions pursuant to a marriage contract good.
341. Heir aliening before action answerable for debts to value of land sold.

Sec.
3342. Creditors preferred; execution; exception.
3343. Heirs may plead nothing by descent; issue thereon; verdict, judgment and execution.
3344. No inquiry as to lands descended; when judgment against heir is by confession or upon demurrer, &c.
3345. Devisee liable and chargeable in same manner as heir.

Section 3338. Where several persons have, by bonds or her specialties, bound themselves and their heirs, and have afterwards died seized in fee simple of and in lands, tenements, and hereditaments, or having power or authority to dispose of or charge the same by their wills or testaments, or have, to the defrauding of their creditors, by their last wills or testaments devised the same, or disposed thereof in such manner that such creditors have lost their said debts, every such creditor shall and may have and maintain his, her, or their action upon his, her, and their said bonds and specialties, against the heir and heirs at law of such obligor and obligors, and such devisee and devisees jointly.

lands devised subject to lien of judgment against executor of devisor.—*Clark v. Kirkpatrick*, 60 S. C., 322; 38 S. E., 779. Cases on liability of heirs and devisees reviewed.—*Id.* *Wheeler v. Floyd*, 24 S. C., 413; *Hendrix v. Den*, 58 S. C., 495; 36 S. E., 1020; *Arial v. Arial*, 29 S. C., 84; 7 S. E., Causey v. Varn, 28 S. C., 608; 6 S. E., 152. Necessity of exhausting personal property.—*Mobley v. Cureton*, 6 S. C., 49. Priority of creditors over mortgage by heir.—*Adger v. Pringle*, 11 S. C., 527. In such action at law the executor cannot be joined.—*Vernon v. Valk*, 2 Hill Ch., 257. But when creditor sues in equity the executor should be a party.—*Vernon v. Valk*, 2 Hill Ch., 257; *Goodhue v. Barnwell*, Rice 198. Time of bringing action.—*Cleveland v. Mills*, 9 S. C., 430.

Sec. 3339. Such devisee or devisees shall be liable and chargeable for a false answer by him or them made, in the same manner as any heir should have been for any false answer by him made, or for not confessing the lands and tenements to him descended.

Debt upon specialty suable against the heirs and devisees jointly.

Civ. '02, § 2571.

Devisee chargeable for false answer.

Civ. '02, § 2572.

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Devise for
raising por-
tions pursuant
to a marriage
contract good.

Civ. '02, §
2573.

Devise for
raising por-
tions pursuant
to a marriage
contract good.

If heir alien
before action,
he shall be lia-
ble for debts
of ancestor to
value of land
sold.

Civ. '02, §
2574.

Creditors pre-
ferred.

Civ. '02, §
2575.

Creditors pre-
ferred.

Sec. 3340. Where there has been, or shall be, any limita-
tion or appointment, devise or disposition of or concerning
any lands, tenements, or hereditaments, for the raising or
payment of any real and just debt or debts, or any por-
tion or portions, sum or sums of money, for any child or
children of any person, other than the heir at law, accord-
ing to or in pursuance of any marriage contract or agree-
ment in writing, *bona fide* made before such marriage, the
same and every of them shall be in full force; and the said
lands, tenements, and hereditaments, shall and may be holden
and enjoyed by every such person or persons, his, her, or
their heirs, executors, administrators, and assigns, for whom
the said limitation, appointment, devise, or disposition was
made, and by his, her, and their trustee or trustees, his, her,
and their heirs, executors, administrators, and assigns, for
such estate or interest as shall be so limited or appointed,
devised, or disposed, until such debt or debts, portion or por-
tions, shall be raised, paid, and satisfied.

Sec. 3341. In all cases where any heir at law shall be
liable to pay the debt of his ancestor in regard of any lands,
tenements, or hereditaments, descending to him, and shall
sell, alien, or make over the same before any action brought
against him, such heir at law shall be answerable for such
debt or debts to the value of the said land so by him sold,
aliened, or made over.

Martin v. Jennings, 52 S. C., 371; 29 S. E., 807; Lowry v. Jackson, 5
S. C., 323; 3 S. E., 473; Hendrix v. Seabrook, 25 S. C., 481.

Exempts lands *bona fide* alienated before action brought.—Galloway v.
Galloway, 76 S. C., 524; 57 S. E., 528.

Sec. 3342. In any of the cases referred to in the last Sec-
tion, creditors shall be preferred as in actions against execu-
tors and administrators, and execution shall be taken out
upon any judgment or judgments so obtained against such
heir, to the value of the said land, as if the same were his
own proper debt or debts, saving that the lands, tenements,
and hereditaments, *bona fide* aliened before the action
brought, shall not be liable to such execution.

Jones v. Wightman, 2 Hill, 579; Richardson v. Chappell, 6 S. C., 146;
Lanier v. Griffin, 11 S. C., 583; Adger v. Pringle, 11 S. C., 548; Warren v.
Raymond, 12 S. C., 22; Smith v. Grant, 15 S. C., 147; Warren v. Raymond,
17 S. C., 196.

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Sec. 3343. Where any action upon any specialty is brought against any heir, he may answer that he has nothing by descent at the time of the commencement of action. ^{Heir may plead nothing by descent.} If upon issue joined thereupon a verdict be found for the plaintiff, the jury shall inquire of the value of the lands, tenements, or hereditaments, so descended, and thereupon judgment shall be given, and execution may be issued accordingly. ^{Civ. '02, § 2576.}

Sec. 3344. If judgment be given against such heir by confession of the action, without confessing the assets descended, or upon demurrer or default, it shall be for the debt and damages, without any order to inquire of the lands, tenements, or hereditaments so descended. ^{Judgment against heir by confession, &c. Civ. '02, § 2577.}

Sec. 3345. All and every devisee or devisees made liable by this Chapter shall be liable and chargeable in the same manner as the heir-at-law, notwithstanding the lands, tenements, and hereditaments, to him or them devised, shall be aliened before the action brought. ^{Devisee by this Chapter made liable to be chargeable as heir. Civ. '02, § 2578.}

Trust executed.—Ussell v. Horn, 71 S. C., 426.

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CHAPTER LXXVI.

Trusts and Special Provisions Relating to Trusts.

Sec.

3346. Trust deed to use of donor void.

3347. The seizin of trust estates to be in the beneficiaries thereof.

3348. If several be seized to the use of one, the seizin shall follow the use.

3349. Beneficiaries of rents out of a trust estate have same title as if conveyed by grant, &c.

3350. All creations of trust shall be in writing.

Sec.

3351. Trusts arising transferred or extinguished by implication of law excepted.

3352. Assignment of trust to be in writing.

3353. Trusts shall be assets in the hands of heirs.

3354. Heir not chargeable of his own estate for the debts of ancestors.

3355. Substitution of trustees; proviso.

3356. Trustees to make annual returns.

3357. Commissions of trustees.

Trust deed of
chattels to use
of grantor
void.Civ. '02, §
2579.

Section 3346. All deeds of gift of goods and chattels in trust, to the use of the person or persons that made the same deed of gift, shall be void and of none effect.

Uzzell v. Horn, 71 S. C., 426; 51 S. E., 253.

The possession
of trust
estates to be
in the beneficiaries
thereof.Civ. '02, §
2580.

Sec. 3347. Where any person or persons shall be seized of and in any lands, tenements, rents, reversions, remainders, or other hereditaments, to the use, confidence, or trust of any other person or persons, or of any body politic, by reason of any bargain, sale, feoffment, covenant, contract, agreement, will or otherwise, the person, persons, or bodies politic, that have or shall have any such use, confidence, or trust, in fee simple, fee-tail, for term of life or for years, or otherwise, or any use, confidence, or trust, in remainder or reversion, shall be deemed and adjudged in lawful seizin, estate and possession of and in the same lands, tenements, rents, reversions, remainders, and hereditaments, with their appurtenances, to all intents, constructions, and purposes in law, of and in such like estates as they had or shall have in use, trust, or confidence of or in the same.

Trusts of personalty not embraced herein.—Rice v. Burnett, Speer Eq. 583; Harley v. Platt, 6 Rich., 315; Creighton v. Pringle, 3 S. C., 78; Lank v. Brunson, 21 S. C., 41; Blount v. Walker, 31 S. C., 13; 9 S. R., 804 Applied.—Pledger v. Easterling, 4 Rich., 101; Pearce v. McClenaghan, 6 Rich., 178; Lamar v. Simpson, 1 Rich. Eq., 71; McNish v. Guerard, 4 Str.

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Eq., 66; *Faber v. Police*, 10 S. C., 376; *Bouknight v. Epting*, 11 S. C., 71; *Farrow v. Farrow*, 12 S. C., 168; *Howard v. Henderson*, 18 S. C., 184; *Dovar v. Cantelou*, 25 S. C., 35; *Welters v. Timmons*, 25 S. C., 488; *McNair v. Craig*, 36 S. C., 100; 15 S. E., 135; *Reeves v. Brayton*, 36 S. C., 384; 5 S. E., 658. Where the intention is that the State shall not be executed in the *cestui que use*, and any object is to be effected by its remaining in the trustee, then it shall not be executed.—*Wilson v. Cheshire*, 1 McC. Ch., 233; *Lamsey v. Marsh*, 2 McC., 252; *Posey v. Cook*, 1 Hill, 413; *Laurens v. Penney*, 1 Speer, 356; *Porter v. Doby*, 3 Rich. Eq., 53; *Williman v. Holmes*, Rich. Eq., 475; *McCaw v. Galbraith*, 7 Rich., 80; *Creighton v. Pringle*, 8 S. C., 77; *Smith v. Smith*, 24 S. C., 313; *Bowen v. Humphreys*, 24 S. C., 55; *Bristow v. McCall*, 16 S. C., 548; *Farr v. Gilreath*, 23 S. C., 511; *Luckaby v. Newton*, 23 S. C., 291; *Ayer v. Ritter*, 29 S. C., 135; 7 S. E., 3; *Blount v. Walker*, 31 S. C., 13; 9 S. E., 804; *Snelling v. Lamar*, 32 S. C., 2; 10 S. E., 825; *State v. Evans*, 33 S. C., 184; 11 S. E., 697; *Carrigan v. Drake*, 36 S. C., 354; 15 S. E., 339; *Mims v. Macklin*, 53 S. C., 6; 30 S. E., 85; *Foster v. Glover*, 24 S. E., 370; 46 S. C., 522; *Robinson v. Ostendorff*, 3 S. C., 66; 16 S. E., 839. Nor where a use is limited upon a use.—*Wilson v. Cheshire*, 1 McC. Ch., 233; *Blount v. Walker*, 31 S. C., 13; 9 S. E., 804. Conveyance in fee reserving usufruct for life to the grantor.—*Cook v. Cooper*, 59 S. C., 560; 38 S. E., 218; *Cribb v. Rodgers*, 12 S. C., 564.

Equitable interest cannot prevail over legal title on motion for non-suit.—*Hitchell v. Cleveland*, 76 S. C., 432; 57 S. E., 33. Assignee holding title in trust to pay debts—after payments of debts, title vests in assignor.—5 S. C., 15; 54 S. E., 827. Trust to preserve contingent remainders not executed.—*Young v. McNeill*, 78 S. C., 143; 50 S. E., 986; *Pope v. Patterson*, 3 S. C., 334; 58 S. E., 945.

Sec. 3348. Where divers and many persons shall happen to be jointly seized of and in any lands, tenements, rents, reversions, remainders, or other hereditaments, to the use, confidence, or trust of any of them that be so jointly seized, each person or persons which have or shall have any such use, confidence, or trust in any such lands, tenements, rents, reversions, remainders, or hereditaments, shall have, and be deemed and adjudged to have, such estate, possession, and seizin, of and in the same lands, tenements, rents, reversions, remainders and other hereditaments only to him or them that have, or shall have, any such use, confidence, or trust, in like nature, manner, form, condition, and course, as he or they had before in the use, confidence, or trust of the same lands, tenements, or hereditaments, saving and reserving to all and singular persons and bodies politic, their heirs, and successors, other than such person or persons which are, or shall be, seized of any lands, tenements, or hereditaments, to any use, confidence, or trust, all such right, title, entry, interest, possession, rents, and action, as they or any of them had, or might have had, without this Section; and, also saving to all and singular those persons, and to their heirs, which are, or shall be, seized to any use, all such former right, title,

If several be seized jointly to the use of one of them, the seizure shall follow the use, saving the right of feoffees to use.

Civ. '02, § 2581.

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entry, interest, possession, rents, customs, services, and action as they or any of them might have had to his or their own proper use, in or to any lands, tenements, rents, or hereditaments, whereof they are, or shall be, seized to any other use, anything contained in this Chapter to the contrary notwithstanding.

Beneficiaries of rent out of a trust estate to have the same title as if conveyed by grant, &c.

Civ. '02, § 2582.

Sec. 3349. In every case where divers persons are seized of and in any lands, tenements, or hereditaments, in fee simple or otherwise, to the use and intent that some other person or persons shall have and receive yearly to them, and to his or their heirs, one annual rent out of such lands and tenements, and some other person one other annual rent to him and his assigns for term of life or years, or for some other special time, according to such intent and use as has been before declared, limited, and made thereof, the persons, their heirs and assigns, that have such use and interest, to have and receive any such annual rents out of any lands, tenements, or hereditaments, and every of them, their heirs and assigns, shall be adjudged and deemed to be in the possession and seizin of the same rent, of and in such like estate as they had in the title, interest, or use of the said rent or profit, and as if a sufficient grant, or other lawful conveyance had been made and executed to them, by such as were or shall be seized to the use or intent of any such rent to be had, made or paid, according to the trust and intent thereof: and all and every such person and persons as have or shall have any title, use, and interest in or to any such rent or profit, shall have all suits, entries, and remedies for such rents, according to such conditions, pains, or other things limited and appointed, upon the trust and intent for payment or surety of such rent.

All creations of rent shall be in writing.

Civ. '02, § 2583.

Sec. 3350. All declarations or creations of trusts or confidences of any lands, tenements, or hereditaments, shall be manifested and proved by some writing, signed by the party who is by law enabled to declare such uses or trust, or by his last will in writing, or else they shall be utterly void and of none effect.

Referred to.—Elliott v. Mackerrell, 19 S. C., 238. Trust need not be created by writing.—Rutledge v. Smith, 1 McC. Ch., 119; Brown v. Brown 1 Strob. Eq., 363. Any writing showing it made after creation of the trust is sufficient proof.—Massey v. McIlwaine, 2 Hill Ch., 428; Brown v. Brown, 1 Strob. Eq., 363; Reid v. Reid, 12 Rich. Eq., 213; Price v. Brown

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4 S. C., 144. But the writing must manifest a previous trust.—Barrett v. Cochran, 11 S. C., 29; Kennedy v. Grambling, 33 S. C., 307; 11 S. E., 1081. Yet if trustee execute a trust, proved only by parol, he is bound by it.—Elliott v. Morris, Harp. Eq., 281. Voluntary acknowledgment will dispense with written proof.—Rutledge v. Smith, 1 McC. Ch., 119.

Sec. 3351. Where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law, or be transferred or extinguished by act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect as the same would have been without this Chapter.

Trusts arising transferred or extinguished by implication of law excepted.

Civ. '02, § 2584.

Rutledge v. Smith, 1 McC. Ch., 119.

Sec. 3352. All grants and assignments of any trust or confidence shall be in writing, signed by the party granting or assigning the same, or by such last will or devise, or else shall be utterly void and of none effect.

Assignment of trusts to be in writing.

Civ. '02, § 2585.

Sec. 3353. If any *cestui que trust* shall die, leaving a trust in fee simple to descend to his heir, such trust shall be deemed and taken, and is hereby declared to be, assets by descent, and the heir shall be liable to and chargeable with the obligation of his ancestors for and by reason of such assets, as fully and amply as he might or ought to have been if the estate in law had descended to him in possession in like manner as the trust descended; any law, custom, or usage to the contrary in any wise notwithstanding.

Trusts shall be assets in the hands of heirs.

Civ. '02, § 2586.

Sec. 3354. No heir that shall become chargeable by reason of any estate or trust made assets in his hands by this Chapter, shall, by reason of any kind of plea or confession of the action, or suffering judgment by default, or any other matter, be chargeable to pay the condemnation out of his own estate; but execution shall be sued of the whole estate so made assets in his hands by descent, in whosoever hands it shall come after the commencement of the action.

Heir not chargeable of his own estate for debts of his ancestor.

Civ. '02, § 2587.

Sec. 3355. In every case of trust estate where the person or persons entitled to the use of any property or estate vested in trustees, being of age, or his, her, or their guardian, if under age, may be willing to have other trustees substituted in the room of those in whom the legal estate is vested, or to have any one or more trustees substituted in the room of any one or more of the first or former trustees, the Court

Substitution of trustees; proviso.

Civ. '02, § 2588.

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of Common Pleas is authorized to permit such one or more of the first or former trustees to surrender his, her, or their trust, and to appoint such one or more trustees in his, her, or their room, as to the said Court may appear fit, proper, and advisable; and the trustee or trustees so appointed and substituted shall then be considered, to all intents and purposes, as vested completely and absolutely with all the estate, right, title, interest, powers, privileges, and authority, and as liable to all the conditions, terms, and restrictions as that trustee or those trustees were vested with or liable to, in whose stead, room, or place, he, she, or they may be so appointed or substituted; and the first or former trustee or trustees shall be therefrom completely exonerated and discharged: *Provided, always,* That a certificate of such appointment and substitution shall be endorsed by the Clerk of the Court of Common Pleas upon the original trust deed, if the trust be created by deed, and the deed can be found, and that such a certificate shall be annexed to the original will, if the trust be created by will, and be lodged therewith in the office where the will may be lodged; and that such a certificate shall also be recorded in the office where the deed or will may be recorded or lodged, or ought to be recorded or lodged.

Ex parte Turner, Ball. Eq., 395; *Ex parte* Kunst, Ball. Eq., 489; *Ex parte* Robert, 2 Strob. Eq., 86; *Ex parte* Mayrant, Rich. Eq. Ca., 1; *Davant v. Guerard*, 1 Speer, 242; *McNish v. Guerard*, 4 Strob. Eq., 66; *Ex parte* Trustees, 7 Rich. Eq., 471; *Morrow v. Odom*, 14 S. C., 623.

Trustees to
make annual
returns.

Civ. '02, §
2589.

Sec. 3356. It shall be the duty of every trustee appointed by the Court to make an annual return of the estate in his possession, setting out all the items of money received and paid out, with the proper vouchers. The Judge of Probate shall set apart certain days for the examination of such accounts, and give notice thereof to all trustees whose duty it shall be to account before him.

Myers v. Myers, 2 McC. Ch., 214; *James v. Wallace*, 4 McC., 121; *Lyles v. Lyles*, 1 Hill Ch., 76; *Rainsford v. Rainsford*, McM Eq., 16; *Nobles v. Boggs*, 36 S. C., 322; 15 S. E., 359.

Commissions
of trustees.

Civ. '02, §
2590.

Sec. 3357. Trustees shall be allowed the same commissions for the execution of their trusts as are allowed by law to executors and administrators.

Muckenfuss v. Heath, 1 Hill Ch., 182; *Singleton v. Lowndes*, 9 S. C., 465; *Lanier v. Brunson*, 21 S. C., 41; *Cobb v. Fant*, 36 S. C., 1; 14 S. E., 959; *Cunningham v. Cunningham*, 31 S. C., 506; 62 S. E., 845.

TITLE VII.

OF TITLE TO PROPERTY BY SPECIAL PROVISIONS OF LAW.

- CHAPTER LXXVII. *Of Sales by Executors, Administrators and Fiduciaries.*
- CHAPTER LXXVIII. *Of Sales under Execution.*
- CHAPTER LXXIX. *Of Homestead.*
- CHAPTER LXXX. *Of Assignments for Benefit of Creditors.*

CHAPTER LXXVII.

Of Sales by Executors, Administrators, and Fiduciaries.

SEC.	SEC.
3358. Lawful for qualified executors to sell land, &c.	3365. Power of Judge of Probate over personal estate of testators.
3359. Executors dying or renouncing.	3366. Sales of certain evidences of indebtedness.
3360. Liability for taking insufficient security.	3367. Conveyance of estates held by infants in trust or by way of mortgage.
3361. May purchase under liability to pay the actual value.	3368. Confirmation of such a conveyance.
3362. To give security to account for purchase money.	3369. Infant trustee, &c., may be compelled to make such conveyance, &c.
3363. Order of sale of personal property.	
3364. Judge of probate to grant order.	

Section 3358. Whenever any person has directed or shall ^{Lawful for qualified ex-}rect by his or her last will and testament, duly executed in ^{ecutors to sell}the presence of three or more credible witnesses, that his ^{land, &c.}her land shall be sold for the payment of his or her debts, ^{Civ. '02, §}2600.
for the purpose of distributing the money which may
ise from the sale thereof among his or her legatees, or for
y other purpose whatsoever, if either such power of sale
expressly given to the executor or executors of said will,

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or if no person is named in said will to execute the said power, it may and shall be lawful to and for the executors or a majority of such executors, who shall qualify on the said will, or the survivor or survivors, to sell and convey the said lands agreeably to the intention of the testator.

Applied.—Herbement v. Bostick, 2 Brev., 435; Drayton v. Grimke, Bal. Eq., 385; Chanet v. Villeponteaux, 3 McC., 29; Ferguson v. King, 2 N. & McC., 588; Ware v. Murph, Rice, 55; Thompson v. Gaillard, 3 Rich., 415; Douglass v. Dickson, 11 Rich., 417; Britton v. Lewis, 8 Rich. Eq., 271; American Bible Society v. Noble, 11 Rich. Eq., 156; Baldwin v. Cooley, 1 S. C., 256; DeSaussure v. Lyons, 9 S. C., 492; Jennings v. Teague, 14 S. C., 229; Smith v. Winn, 27 S. C., 591; 4 S. E., 240; Bredenburg v. Bardin, 36 S. C., 197; 15 S. E., 372. But irrespective of this Act the power survives to one of several executors where it is coupled with a trust—Bredenburg v. Bardin, 36 S. C., 197; 15 S. E., 372. But it does not apply if the power be given to the executors jointly as several persons or in personal confidence; then all must act and it will not survive.—Mallett v. Smith, 6 Rich. Eq., 12; Smith v. Winn, 27 S. C., 591; 4 S. E., 240. The Act of 1876 is remedial and retrospective.—Bredenburg v. Bardin, 36 S. C., 197; 15 S. E., 372.

Executors
dying or re-
nouncing.

Civ. '02, §
2601.

Sec. 3359. If the executor or executors should die, or renounce according to law, the administrator or administratrix with the will annexed shall be authorized to sell the real estate of the said deceased, as directed in and by the will.

Rose v. Thornley, 33 S. C., 313; 12 S. E., 11.

Liability for
taking insuffi-
cient secur-
ity.

Civ. '02, §
2602.

Sec. 3360. If any executor, or administrator with the will annexed, having power under the will to dispose of the estate or any part thereof, shall take such security as shall be clearly proved to be insufficient at the time, such executors, or administrators, and their sureties, shall be liable to make good any loss or damages that the legatees or creditors may sustain, to be recovered by action against such executors, or by action on the bond of such administrator, wherein such damages shall be assessed by the verdict of a jury.

May pur-
chase under
liability to
pay the ac-
tual value.

Civ. '02, §
2603.

Sec. 3361. It shall be lawful for any executor or executrix, administrator or administratrix, to become a purchaser at the sale of the estate of his or her testator or intestate under whatsoever authority the said sales may be made, and the property so purchased shall be vested in him or her; but he or she shall be liable to the parties interested for the actual value of the property at the time of sale in cases where it shall have been sold at an under price.

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Cummings v. Coleman, 7 Rich. Eq., 502; Huger v. Huger, 9 Rich. Eq., 217; Anderson v. Butler, 31 S. C., 183; 9 S. E., 797. Embraces sales of land.—Huger v. Huger, 9 Rich. Eq., 217; Cunningham v. Cauthen, 37 S. C., 124; 5 S. E., 917.

Sec. 3362. If any executor or executrix shall purchase any property at the sales of the estate of his or her testator, he or she shall give bond, with surety, to the Judge of Probate of the County, conditioned to account for the purchase money of the said property. To give security to account for purchase money. Civ. '02, § 2604.

Finch v. Finch, 28 S. C., 164; 5 S. E., 342; Huger v. Huger, 9 Rich. Eq., 217.

Sec. 3363. On all sales of personal property made by executors and administrators, they shall first obtain an order from the Court of Probate; and no sale made without such order shall be valid, except it be directed by the will. Order of sale of personal property. Civ. '02, § 2605.

Under Act of 1789 administrator still had right to sell without such order. Harth v. Heddlestone, 2 Bay, 321. But under Act of 1824 such order became imperative as to personal property.—Rhame v. Lewis, 18 Rich. Eq., 9. But choses in action are not embraced in personal property.—Id.; Synolds v. Reeves, 23 S. C., 436; Chapman v. City Council, 30 S. C., 549; 3 S. E., 591. The doctrine of implied warranty applies to such sales.—Dun v. Bell, 2 N. & McC., 153. But purchaser cannot recover back his money on that ground.—Prescott v. Holmes, 7 Rich. Eq., 9. Right of Probate Court to set upset price.—Epperson v. Jackson, 23 S. C., 158; 65 S. E., 217.

Sec. 3364. It shall be the duty of the Judge of Probate, to whom administration may be granted, upon application made to him, to grant an order for the sale of the whole or any part of the personal estate of the deceased intestate, if, in his opinion, the same is advisable, regulating the time, place, and credit to be given, in such manner as to do impartial justice to all persons interested therein. Judge of Probate to grant order. Civ. '02, § 2006.

Terms of sale must be complied with.—Peay v. Fleming, 2 Hill Ch., 97; Peay v. Cureton, Chev. Eq., 181; Roberts v. Adams, 2 S. C., 337. Except the time of sale may be postponed by administrator when advisable.—Id. v. Lamb, Speer Eq., 289.

Sec. 3365. The Judge of Probate, in whose office a will is recorded, shall have the same power as to the personal estate of a testator, not inconsistent with the provisions of the will, as is given him over the personal estate of an intestate by the preceding Section. Power of Judge of Probate over personal estate of testator. Civ. '02, § 2607.

Sec. 3366. All administrators, executors, and other fiduciaries, shall be allowed to sell to the highest bidder, as other personal property is sold all notes, accounts, and other evidences of indebtedness. Sales of certain evidences of indebtedness. Civ. '02, § 2608.

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dences of indebtedness coming into their hands as such when the same are appraised or have become doubtful or worthless.

Conveyance
of estates
held by in-
fants in trust
or by way of
mortgage.

Civ. '02, §
2609.

Sec. 3367. It shall and may be lawful for any person under the age of twenty-one years, having estates in lands, tenements, or hereditaments, only in trust for others, or by way of mortgage, by the direction of the Court of Common Pleas, signified by an order made upon hearing all parties concerned, on the petition of the person for whom such infant or infants shall be seized or possessed in trust, or of the mortgagor, or guardian of such infant, or persons entitled to the moneys secured by or upon any lands, tenements, or hereditaments, whereof any infant is or shall be seized or possessed by way of mortgage, or of the person entitled to the redemption thereof, to convey and assure any such lands, tenements, or hereditaments, in such manner as the said Court shall, by such order so to be obtained, direct, to any other person.

Confirmation
of such a con-
veyance.

Civ. '02, §
2610.

Sec. 3368. Such conveyance or assurance, to be had and made as aforesaid, shall be as effectual in law, to all intents and purposes whatsoever, as if the said infant was, at the time of making such conveyance or assurance, of the full age of twenty-one years.

Infant trustee,
&c., may
be compelled
to make such
conveyance,
&c.

Civ. '02, §
2611.

Sec. 3369. All and every such infant, being only trustee or mortgagee as aforesaid, shall and may be compelled by such order, so as aforesaid to be obtained, to make such conveyance, assurance, as aforesaid, in like manner as trustees or mortgagees of full age are compellable to convey or assign the trust estates or mortgages.

CHAPTER LXXVIII.

Sales Under Execution and by Judgment Debtors.

ARTICLE 1. Sales Under Execution.

ARTICLE 2. Sales by Judgment Debtors.

ARTICLE I.

SALES UNDER EXECUTION.

70. Real estate made liable for debts, &c.	SEC. 3374. Sheriff to advertise same.
71. Estates held in trust may be sold under execution against beneficiaries.	3375. Advertisement to contain what; publication.
72. Sheriff to make memorandum of levy, &c.	3376. Sale days.
73. Property taken in execution to be sold at auction.	3377. Place of Sheriff's sales.
	3378. Place of sale in Charleston County.
	3379. Hours of sale.
	3380. Sales to be for cash.

Section 3370. Houses, lands, and other hereditaments and Real estate made liable for debts, &c. Civ. '02, § 2612. Code of Procedure, § 312.

Real estates, situate or being within this State, belonging to person indebted, shall be liable to and chargeable with just debts, duties and demands, of what nature or kind ever, owing by any such person, and shall and may be sold for the satisfaction thereof, and shall be subject to like remedies, proceedings, and process, as personal estates.

Lands are thus made general assets for payments of debts.—Suber v. 13 S. C., 317. These terms cover every vested interest a man can have in lands.—Harrison v. Maxwell, 2 N. & Mc., 347. Embrace a vested interest.—Harrison v. Maxwell, 2 N. & McC., 347. Sale of lands of ancestor under execution against executor or administrator alone can be made if heirs or devisees are not in possession.—D'Urphey v. Nelson, 1 Brev., 134; Smith v. Smith, 1 McC. Ch., 134; Galphin v. McKinney, 1 McC. Ch., 134; Martin v. Latta, 4 McC., 128; Gregory v. Forrester, 1 McC. Ch., 318; Smith v. Huggins, 6 S. C., 359; Simons v. Bryce, 10 S. C., 354; Smith v. 15 S. C., 136; Small v. Small, 16 S. C., 64. But not when heirs or devisees are in actual and exclusive possession.—Jones v. Wightman, 2 Hill, 147; Bird v. House, Speer Eq., 250; Huggins v. Oliver, 21 S. C., 147; Per v. Floyd, 24 S. C., 413. Lands in possession of vendee under agreement for conveyance upon payment of purchase money, not liable to be sold under execution against him.—Barton v. Rushton, 4 DeS., 373; Richards v. 188. Nor under subsequent execution against vendor.—

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Massey v. McIlwaine, 2 Hill Ch., 421; Adicks v. Lowry, 12 S. C., 97. An equity of redemption under Acts 1791-1797 is a legal estate and subject to such sale.—The State v. Laval, 4 McC., 338; Norman v. Norman, 26 S. C., 41; 11 S. E., 1096; Navassa Co. v. Richardson, 26 S. C., 401; 2 S. E. 37. Interest of joint tenant subject to levy and sale.—Dayant v. Cabbage, 1 EL. 811; Galloway v. Galloway, 76 S. C., 526; 57 S. E., 528.

All estates held in trust may be sold under execution issued against the beneficiary.

Civ. '02, § 2618.

Section 3371. All estate, real or personal, which is held in trust for him against whom execution is sued, may be seized by the Sheriff or officer to whom the writ is delivered, and sold as the property of him that is entitled to the trust, in the same manner as if such property was held in his own name.

This only applies to simple and clear trusts.—White v. Kavanaugh, 1 Rich., 377. And not to trusts for debtor jointly with others.—Rice v. Bennett, Speer Eq., 579; Bristow v. McCaw, 16 S. C., 543. Nor to such trusts of married women.—Youmans v. Buckner, 3 Hill, 218. It does not apply to implied or resulting trusts.—Harrison v. Hollis, 2 N. & McC., 578; Bauser v. Halsonback, 2 Rich., 624; Thomson v. Peake, 7 Rich., 353; White v. Kavanaugh, 8 Rich., 377.

Sheriff to keep memorandum of levy, &c.

Civ. '02, § 2614.

Sec. 3372. The Sheriff shall make a memorandum in writing, of the date of every levy, and specify the property upon which such levy has been made on the process, or in a schedule thereunto annexed; and if more than one process be levied on such property, reference on each shall be made to such memorandum or schedule.

In levying on land, the Sheriff need not go upon it.—Martin v. Bowk, 1 S. C., 102; 15 S. E., 736.

Failure to enter levy on all the executions except oldest does not invalidate sale.—Maddox v. Sullivan, 2 Rich. Eq., 4. Endorsement of acknowledgment of levy by defendant is sufficient.—Weatherby v. Covington, 3 Strob., 27; Rhame v. McRoy, 7 Rich., 37. Sufficient if entry be made on separate paper, folded and filed with the execution.—Kennedy v. Rountree, 59 S. C., 352; 37 S. E., 942. The physical annexing of the memorandum to the execution immaterial.—Tyler v. Williams, 53 S. C., 367; 31 S. E., 943. Entry there insufficient; essentials stated.—*Id.* Property must be specified, otherwise the levy is void.—Huger v. Osborne, 1 Bay, 319. If in general terms, deed may describe accurately.—Manning v. Dove, 10 Rich., 395. Levy is good, though made under satisfied execution, if there be unsatisfied ones.—McKnight v. Gordon, 13 Rich. Eq., 222. Personal property must be taken into possession or be within power of Sheriff.—Collins v. Montgomery, 2 N. & McC., 392; Moss v. Moore, 3 Hill, 276; Brian v. Smith, 19; Weatherby v. Covington, 3 Strob., 27; Rhame v. McRoy, 7 Rich., 37. The title vests in Sheriff for all legal purposes.—McClintock v. Graham, 3 McC., 243. But for that only.—Bates v. Gest, 3 McC., 493; Huger v. Moore, 2 Bail., 614; Weatherby v. Covington, 3 Strob., 27. Levy cannot be made at improper hour or in improper manner.—State v. Thacker, 1 Bay, 358; DeGraffenreid v. Mitchell, 3 McC., 506. Money in Sheriff's hands is leviable.—Summers v. Caldwell, 2 N. & McC., 341; Means v. Turner, 1 Bail., 39; Adams v. Crimager, 1 McM., 309; Dupong v. Watkins, 2 Rich., 328. Levy cannot be made after day of execution.—Ross v. McCann, 1 Brev., 507. Sheriff cannot levy execution in which he is plaintiff.—Sage v. Carter, 1 Bail., 467. Levy is *prima facie* a satisfaction, and a sale.

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cannot be made until sale shows contrary.—Davis v. Barkley, 1 Bail., 1; Mazyck v. Coll, 2 Bail., 101; Lawrence v. Wofford, 17 S. C., 586; National Bank v. Kinard, 28 S. C., 101; 5 S. E., 464. Under levy made by one Sheriff before active energy of execution has expired, he or his successor may sell.—Toomer v. Purkey, 1 Mill, 323; Gassaway v. Hall, 3 Hill, 1; Leger v. Doyle, 11 Rich., 109; Henderson v. Trimmier, 32 S. C., 269; 5 S. E., 540. And under sale by one Sheriff successor may convey.—Martin v. Willbourne, 2 Hill, 395. Where one levy and several entries, Sheriff may only charge for one levy.—Thrower v. Vaughn, 1 Rich., 18.

Sec. 3373. When any Sheriff or other officer shall take lands, tenements, goods and chattels, of any person whatever, by virtue of any execution, and the owner of such lands, tenements, goods, and chattels, shall not, within five days after such taking, satisfy the party issuing such execution, his debt, damages, and costs, such Sheriff or officer shall and may sell, by auction, the lands, tenements, goods, and chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment, for the best price that can be obtained for the same.

Property
taken in execution to be
sold, &c.

Civ. '02, §
2615.

Under execution having no lien will be valid if there be at the time a lien.—Agnew v. Adams, 17 S. C., 371; Garvin v. Garvin, 34 S. C., 1; Sheriff cannot purchase at his own sale.—Lewis v. Brown, 4 Strob., 1. But sale is invalid if enough has already been sold to pay the execution.—Zylstra v. Keith, 2 DeS., 141. Prevention of competition among bidders will vitiate the sale.—Farr v. Sims, Rich. Eq. Ca., 122; Barrett v. Paper Co., 13 S. C., 158; Toole v. Johnson, 61 S. C., 34; 39 S. E., 254. Real property is sold subject to mortgages upon it.—Commissioners v. 1 Brev., 492; Thayer v. Sheriff, 2 Bay, 171; *ex parte* Sheriff, 1 McC., 1; Phillips v. Bond, 2 McC., 382; McClure v. Mounce, 2 McC., 424; Norv. v. Norman, 26 S. C., 41; 11 S. E., 1096. But personal property mortgaged is not liable to executions against mortgagor.—Reese v. Lyon, 20 S. C., 20; McCendon v. Wells, 20 S. C., 520; Levi v. Legg, 23 S. C., 284; Rams v. Dobson, 26 S. C., 112; 1 S. E., 421; *ex parte* Knobloch, 26 S. C., 86; 2 S. E., 612; Bank v. Kinard, 28 S. C., 101; 5 S. E., 464; *ex parte* 12, 32 S. C., 365; 11 S. E., 206; Akers v. Rowan, 38 S. C., 451; 12 S. E., 165. There is no implied warranty at Sheriff's sales; the rule of *est emptor* applies.—Thayer v. Sheriff, 2 Bay, 169; Davis v. Murray, 2 S. C., 143; Herbemont v. Sharp, 2 McC., 264; Yates v. Bond, 2 McC., 382; v. Hunt, 2 Bail., 412; Stoney v. Shultz, 1 Hill, 465; Murphy v. Bottom, 2 Hill, 397; Moore v. Akin, 2 Hill, 403; Perry v. Williams, 44; Kilgore v. Peden, 1 Strob., 18; Jones v. Burr, 5 Strob., 147; v. Doyle, 11 Rich., 109; Wingo v. Brown, 14 Rich., 103; Cox v. 12, 8 S. C., 1; Charleston v. Blohme, 15 S. C., 135; Norman v. Norv., 26 S. C., 41; 11 S. E., 1096; Long v. McKissick, 50 S. C., 218; 27 S. E., 636.

Sale under junior judgment divests lien of senior judgment.—Matthews v. 12, 49 S. C., 389; 27 S. E., 408; Trumbo v. Cumming, 20 S. C., 336; v. Adams, 17 S. C., 364; Snipes v. Sheriff, 1 Bay, 295; Greenwood v. 12, 1 McC., 414; Gist v. McJunkin, 1 McM., 342; Vance v. Red, 2 S. C., 90; McKnight v. Gordon, 18 Rich. Eq., 222; *in re* Vorhees, 46 S. C., 24 S. E., 170.

Sec. 3374. The Sheriff of every County in this State shall, before he exposes any lands or tenements which he may

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Sheriff to advertise same.

Civ. '02, § 2816.

be directed to sell by virtue of any execution or mortgage publicly advertise the same three weeks immediately previous to the sale day or days on which he means to expose the same for sale. Personal property shall be advertised for fifteen days.

In computing the time, the day the advertisement begins and day of sale may both be counted.—Manning v. Dove, 10 Rich., 395.

Advertisement to contain what publication.

Civ. '02, § 2817.

Sec. 3375. He shall specify in the advertisement the property to be sold, the time and place of sale, the name of the owner of the property, and the party at whose sale the sale is to be made, and shall publish the advertisement at three public places in the County, one whereof shall be at the Court House door: *Provided*, That publication shall also be made in some gazette, as provided in the preceding Section, before the day of sale, in every County where a newspaper may be printed.

The requirements must be essentially complied with or the sale will be void.—Farr v. Sims, Rich. Eq. Ca., 122. But failure to advertise for twenty-one days not invalidate sale.—Maddox v. Sullivan, 2 Rich. Eq., 4; *ex parte* Alexander, 35 S. C., 409; 14 S. E., 854. In computing the twenty-one days, the day the advertisement begins and the day of sale may both be counted.—Manning v. Dove, 10 Rich., 395. The advertisement must contain the terms of sale.—Farr v. Sims, Rich. Eq. Ca., 122. But an imperfect description of the property does not vitiate.—Ward v. Cohen, 3 S. C. 338; Lawrence v. Grambling, 13 S. C., 120; Cain v. Maples, 1 Hill, 304. It may be evidence to show that purchaser was not mistaken as to the property sold.—Elfe v. Gadsden, 2 Rich., 373. As to publication in newspaper.—State v. Becket, 3 McC., 390. Failure of such does not invalidate sale.—Turner v. McCrea, 1 N. & McC., 11. Sale *en masse* or in parcels.—Hamer v. Farmer, 26 S. C., 566; 2 S. E., 507.

Sale days.

Civ. '02, § 2818.

Sec. 3376. The regular day of Sheriff's sale shall be the first Monday in each month, except in the County of Beaufort, the sale day of which shall be the first Tuesday of each month, and except also when the first Monday in any month is a legal holiday, in which case the sale day shall be on the Tuesday next preceding such holiday: *Provided*, If there be not time to dispose of all the property on sale day, the next day following shall also be a regular sale day, if by public outcry on sale day, or if the regular sale day be a public holiday, notice of sale on the next day shall have been given. The Sheriff may sell property at any other time when so ordered by a Court of competent authority.

Sheriff can only sell on Monday and Tuesday of each month.—Minter v. Dent, 2 Bail., 291. He must judge of necessity to postpone sale to Tuesday.—Cain v. Maples, 1 Hill, 304. Not liable for attachment for such postponement.—Connor v. Archer, 1 Speer, 89.

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Place of Sheriff's sales.

Civ. '02, § 2619.

Master's and Sheriff's sales may be made at Real Estate Exchange in Charleston County.

1908, XXV, 1211.

Hours of sale.

Civ. '02, § 2620.

Sales to be for cash; provisions for resale.

Civ. '02, § 2621.

Sec. 3377. The place of Sheriff's sales, as to real estate, shall be at the Court House of the County: *Provided*, The sales for Georgetown County may be conducted at the Market place, and those for Charleston County at the Exchange in Charleston; personalty may be sold at the place whereon it may be found by the Sheriff, upon levy, or such other more convenient place as may be selected.

Sec. 3378. It may be lawful for Master's and Sheriff's sales in Charleston County to be conducted at the Charleston Real Estate Exchange, or such other place in said County as the Court may direct, any law or custom to the contrary notwithstanding.

Sec. 3379. The hours of sale shall be between eleven and three o'clock in Charleston County, and eleven and five in each other County; but not at any time after notice given by the Sheriff that the sales for the day have been closed.

Statute directory.—Lewis v. Brown, 4 Strob., 298.

Sec. 3380. Every Sheriff's sale made by virtue of the directions of an execution shall be for cash; and if the purchaser shall fail to comply with the terms aforesaid, the Sheriff shall proceed to resell at the risk of the defaulting purchaser, either on the same or some subsequent sale day, as the plaintiff may direct; and in the absence of any direction by the plaintiff, the Sheriff shall so resell on the same day, if practicable, and if not, on the next succeeding sale day, making, in every such case, proclamation that he is reselling at the risk of such defaulting former purchaser.

Construed.—Fowles v. Turner, 3 Hill, 178. Where purchaser is owner of execution entitled to proceeds of sale, he need not pay cash, except sufficient to pay costs.—Cobb v. Pressly, 2 McM., 416; Lemmond v. Short, 3 Strob., 113; Lorick v. McCreery, 20 S. C., 428. Deed of Sheriff, when bid has not been fully paid, is valid.—Woods v. Dean, 24 S. C., 409. Purchaser's title fails where he does not comply.—Jones v. Cathcart, 17 S. C., 593. Acceptance cheque for bid.—Brown v. Barnwell Mfg. Co., 46 S. C., 415; 24 S. E., 91. Time within which to comply.—*Id.* Bidder responsible, when property is delivered, for interest on his bid from sale.—Hampton v. Eichelberger, 2 Bail., 520; Arnold v. House, 12 S. C., 600. Bidder may comply after time fixed for resale.—Yates v. Gridly, 16 S. C., 503. Resale the same day at instance of second purchaser at great sacrifice, invalid.—Pickett v. Pickett, 2 Hill Ch., 470. Sheriff not bound to resell.—Elfe v. Gadsden, 1 Strob., 225. Resale is not at risk of former purchaser if Sheriff failed to make proclamation to that effect.—Yongue v. Cathcart, 2 Strob., 221. Nor made months afterwards, without direction of plaintiff.—*Id.*, 3 Strob., 105; Young v. Aiken, 4 Rich., 15. Does not apply where Sheriff delivers the property without the cash.—Fowles v. Turner, 3 Hill, 178; Cobb v. Pressly, McM., 416; Elfe v. Gadsden, 1 Strob., 225; Cochran v. Roundtree, 3 Strob.,

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217; *Richardson v. Inglesby*, 13 Rich. Eq., 59. Nor does it authorize successor to sue for difference in price between first and second sale.—*Underwood v. Jacob*, 3 McC., 447. Whether resale is made by proper officer can be made by first bidder when sued for difference in bids.—*Childs v. Farr*, 15 S. C., 612. Subsequent judgment creditor cannot complain of Sheriff's neglect to bind bidder by resale within time required.—*State v. Yongue*, 6 Rich., 323. Where first bidder is insolvent and Sheriff fails to so bind him and resells for less than his bid, the execution is not satisfied to extent of bid.—*Lewis v. Richardson*, 6 Rich., 332. Where debtor consents to postpone resale, Sheriff is not liable for difference in bids.—*State v. Yongue*, 9 Rich., 443. So where judgment creditor consents.—*State v. Yongue*, 10 Rich., 448. Generally as to Act 1839.—*Connor v. Archer*, 1 Speer, 89; *Yongue v. Cartwright*, 2 Strob., 221. Formalities required are intended for benefit of parties interested, and may be waived by their common consent.—*O'Bannon v. Kirtland*, 2 Strob., 29; *Lewis v. Brown*, 4 Strob., 293; *Richardson v. Inglesby*, 13 Rich. Eq., 59. But direction of judgment creditor alone to deliver property without payment releases the debtor and bid satisfied execution.—*Richardson v. Inglesby*, 13 Rich. Eq., 59. The Statute fixes liability upon highest bidder as a purchaser to extent of difference in bids.—*Cox v. Edwards*, 8 S. C., 1. Bid by attorney for undisclosed principal.—*Long v. McKissick*, 50 S. C., 218; 27 S. E., 836.

ARTICLE II.

SALES BY JUDGMENT DEBTORS.

Sec.

3381. Judgment debtors to pay proceeds of property sold by them to Sheriff: when and how sold, confirmed, &c.

3382. How Sheriff to proceed when judgment creditors object to sale.

Sec.

3383. Endorsement by Sheriff on deed, &c.

3384. How Sheriff to proceed when property brings more at his sale than at sale by debtor: effect of.

Judgment debtors selling property to pay proceeds to Sheriff: when and how such sales are confirmed; endorsement on deed of conveyance.

Civ. '02, § 2622.

Section 3381. The entire proceeds of a sale or sales of property subject to levy and sale, made by the judgment debtors, are to be paid over by said judgment debtors to the Sheriff in whose office such judgments, executions, or decrees are lodged, to be applied by said Sheriff towards the satisfaction of the same; and, provided no objection shall be made in writing by either of the judgment creditors, and filed with said Sheriff, as to price at which the property may have been sold, within three months from and after the time such payment shall have been made, the sale or sales shall thereupon be considered confirmed; and the said Sheriff shall make the following endorsement on the back of the deed or deeds of conveyance, viz.: "No objection having been filed in my office to the within bargain and sale within the time prescribed by law, this bargain and sale

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s therefore confirmed;" the same to be dated and signed officially by the said Sheriff.

Sec. 3382. Should either of the judgment creditors object to the prices at which any of the said property may have been sold, and file such notice with the Sheriff within the time before mentioned, the Sheriff shall immediately proceed to levy upon and offer for sale said property, proceeding, in all respects, according to the law in regard to levy and sale by the Sheriff; and if the highest bid made for said property shall not be more than the amount of the indebtedness which had been cancelled by the sale made by the debtor, the Sheriff shall withdraw said property from sale; and the creditor or creditors who may have filed their objection shall be required to pay all costs and expenses that accrued in consequence thereof.

Proceedings
if judgment
creditors ob-
ject to sale.

Civ. '02, §
2623.

Sec. 3383. The Sheriff shall make the following endorsement on the back of the conveyance made by the debtor, viz.: "Objection having been filed in my office by, judgment creditor, I levied upon and exposed for sale the property within named; and failing to receive a higher bid than the amount of indebtedness cancelled by the proceeds of the within bargain and sale, this sale is therefore confirmed;" and signed as directed in Section 3381 of this chapter.

Endorsement
on convey-
ance.

Civ. '02, §
2624.

Sec. 3384. In the event that the property, when so exposed for sale by the Sheriff, as provided for in Section 3382, should bring more than the amount of the indebtedness cancelled by the proceeds of the sale made by the debtor, the purchaser from the debtor shall be refunded the amount paid by him, with interest from the time of payment, and the bargain sale made by the debtor rescinded, and titles executed by the Sheriff to the purchaser at his sale; and, after deducting the costs and expenses by reason of the levy and sale, the remainder to be applied, according to law, towards satisfaction of the judgments or executions in his favor.

Proceedings
property sold
by Sheriff
brings more
than when
sold by debtor.

Civ. '02, §
2625.

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CHAPTER LXXIX.

Of Homesteads.

Sec.

3385. Homestead in lands; to be set off by Sheriff; appraisers to be appointed; proceedings, &c.

3386. Return to be recorded.

3387. When Sheriff shall sell premises.

3388. Homestead to widow and children.

3389. No waiver of.

3390. Personal property exemption.

3391. When a married woman has homestead.

3392. Property not exempt for taxes, &c., as to yearly products.

Sec.

3393. When may order sale; allow homestead out of proceeds.

3394. How homestead set off when no process lodged; law confirmed.

3395. Penalty for violations by officer.

3396. Compensation to appraisers, Sheriff, &c., how paid; to be paid in advance; compensation to Master or Clerk.

Homestead
in lands; what
allowed.

Civ. '02, §
2626.

How set off.

Section 3385. A homestead in lands, whether held in fee or any lesser estate, to the value of one thousand dollars, or so much thereof as the property is worth if its value is less than one thousand dollars, with the yearly products thereof, shall be exempt to the head of every family residing in this State from attachment, levy or sale, in mesne or final process issued from any Court, upon any judgment obtained upon any right of action arising subsequent to the ratification of the Constitution of the State of South Carolina in 1868. And it shall be the duty of the Sheriff or other officer before selling the real estate of any head of a family resident in this State to cause a homestead as above stated to be set off to said person in the manner following, to wit: He shall cause three appraisers to be appointed, one to be named by the creditor, one by the debtor and one by himself, who shall be discreet and disinterested men, in no wise related to either party, and resident in the County, and who shall be sworn by a Magistrate, or other officer authorized by law to administer oaths, to impartially appraise and set off by metes and bounds a homestead not to exceed in value one thousand dollars. The said appraisers shall make return of their action in the premises under their hands and seals.

the Sheriff or other officer within thirty days after they shall have been appointed as aforesaid, for record in the office of the Clerk of said Court, giving the metes and bounds as well as the value of the homestead set off, for which purpose they shall be authorized to call in the aid of a surveyor if they, or a majority of them, deem it necessary. If no complaint shall be made by either creditor or debtor within thirty days after the return of the appraisers has been filed, the proceedings in the case shall be final. If exceptions to said return be filed by either creditor or debtor within thirty days after the filing thereof, the same shall be tried *de novo* upon testimony taken in open Court, and the Court out of which the process issued may, upon good cause being shown, order a reappraisement and reassignment of the homestead by other appraisers appointed by the Court. Should the creditor or debtor neglect or refuse, after ten days' notice from the officer in whose hands the process is lodged, to nominate an appraiser, the said officer shall appoint the same.

Character of homestead.—It is an absolute exemption, to be perpetuated under certain conditions.—McKeown v. Carroll, 5 S. C., 75; Hardin v. Houze, 18 S. C., 73; Bradford v. Buchanan, 39 S. C., 237; 17 S. E., 501; Ross v. Bradford, 28 S. C., 71; 5 S. E., 84; Mellichamp v. Mellichamp, 28 S. C., 125; 5 S. E., 333; Parr v. Lindler, 40 S. C., 193; 18 S. E., 636. But under the Constitution of 1868, before the amendment of 1880, it could not be claimed if the conditions did not exist or had ceased.—Hardin v. Houze, 18 S. C., 73; Chalmers v. Turnipseed, 21 S. C., 126; Yoe v. Hanvey, 25 S. C., 309; 14 S. E., 1099. It is not a new estate, nor, prior to the Constitution of 1895, did the right to it destroy the power to alien or encumber the property; but it left the titles intact.—Smith v. Malone, 10 S. C., 39; Bull v. Rowe, 13 S. C., 333; Elliott v. Mackorell, 19 S. C., 239; *ex parte* Ray, 20 S. C., 246; Youngblood v. Lathen, 20 S. C., 370; Chafee v. Rainey, 21 S. C., 11; Chalmers v. Turnipseed, 21 S. C., 126; Horsford v. Wynn, 22 S. C., 309; Cantrell v. Fowler, 24 S. C., 424; Yoe v. Hanvey, 25 S. C., 309; Kitchen v. McCarley, 26 S. C., 1; 11 S. E., 1099. It does not affect the Statute of Distribution.—*ex parte* Ray, 20 S. C., 246. Under Con. 1868, and Acts of 1872 and 1873, it was limited to life of childless widow.—Chalmers v. Turnipseed, 21 S. C., 126. Where husband's fraudulent conveyance is set aside, he is still entitled to homestead in the land.—Wood v. Timmerman, 29 S. C., 125; 7 S. E., 74. Where husband fraudulently has land conveyed to his wife, he paying the purchase money, he cannot claim homestead in it.—Bridges v. Howell, 27 S. C., 425; 11 S. E., 790.

In what lands.—One is entitled to homestead in a tract of land assigned to him in partition.—Riley v. Gaines, 14 S. C., 454. Leased parcels adjoining residence.—Harrell v. Kea, 16 S. E., 42; 37 S. C., 369. Also, in his share of proceeds of land sold for partition.—Swandale v. Swandale, 25 S. C., 389; *ex parte* Carraway, 28 S. C., 233; 5 S. E., 597. But not in his undivided interest in land itself; though Court may restrain sale thereof until partition is made.—Nance v. Hill, 26 S. C., 227; 1 S. E., 897; Mellichamp v. Mellichamp, 28 S. C., 125; 5 S. E., 333; Ketchin v. Patrick, 32 S. C., 443; 11 S. E., 301. One holding land under contract to purchase has no homestead

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therein.—Garaty v. DuBose, 5 S. C., 493; Bradley v. Rodlesperger, 17 S. C., 9; Agnew v. Adams, 17 S. C., 364. Unless he has paid the whole purchase money.—Munro v. Jeter, 24 S. C., 29; *ex parte* Kurz, 24 S. C., 468. Under amendment to Constitution in 1882, head of family is entitled to homestead in any land he may own, whether he reside on it or not.—Swandale v. Swandale, 25 S. C., 889; Nance v. Hill, 26 S. C., 227; 1 S. E., 897. Husband not entitled to homestead in lands of wife, who died childless.—Harnon v. Wagener, 33 S. C., 487; 12 S. E., 98. Head of family—widow is, though childless.—Bradley v. Rodlesperger, 3 S. C., 206; Moore v. Parker, 13 S. C., 486; Bradley v. Rodlesperger, 17 S. C., 9; Yoe v. Hanvey, 25 S. C., 34. Bachelor is not.—Garaty v. DuBose, 5 S. C., 493. Father is, who has child living with him.—Meyers v. Ham, 20 S. C., 522. Even though child be an adult married son, living separate from his wife.—Rollings v. Evans, 23 S. C., 316. Debtor who marries after levy on his land, and before sale, is entitled to homestead therein.—*Id.* Distinction as to personalty.—Pender v. Lancaster, 14 S. C., 25. A son is, who devotes his earnings and rents to the support of himself and widowed mother.—Scott v. Moseley, 54 S. C., 375; 32 S. E., 450. Widower living with adopted daughter.—Wagener v. Parrott, 51 S. C., 489; 29 S. E., 240. Single woman, who has dependent sister living with her, is.—Chamberlain v. Brown, 33 S. C., 597; 11 S. E., 439. A man is, who continues to support his wife's niece, who lived with them during wife's life and spends part of her time with him since her death.—Fant v. Gist, 36 S. C., 576; 15 S. E., 721. Against what debts.—The cases *in re* Kennedy, 2 S. C., 216; Adams v. Smith, Muller v. Farhart, Adams v. Lide, 2 S. C., 228; Howze v. Howze, 2 S. C., 229, allowing the homestead exemption provided by the Constitution of 1868, and the Acts thereunder against antecedent debts, have been overruled. It is now settled that such homestead as to antecedent debts is contrary to the Constitution of the United States, and all proceedings therefor void.—Cochran v. Darby, 5 S. C., 125; *ex parte* Hewett, 5 S. C., 409; De LaHove v. Harper, 5 S. C., 470; Bull v. Rowe, 13 S. C., 355; Douglass v. Craig, 13 S. C., 371; Carrigan v. Bozeman, 13 S. C., 376; Charles v. Charles, 13 S. C., 385; Withers v. Jenkins, 21 S. C., 365; Hosford v. Wynn, 22 S. C., 309; *Id.*, 26 S. C., 130; 1 S. E., 497; Compton v. Patterson, 28 S. C., 115; 5 S. E., 270; Fowler v. Wood, 31 S. C., 398; 10 S. E., 93. The homestead exemption is governed by the law in force at the time of the creation of the debt.—Trimmer v. Winsmith, 41 S. C., 109; 19 S. E., 283; McClenaghan v. McEachern, 47 S. C., 446; 25 S. E., 296. Only allowed debtor against his own debts.—Bank v. Senn, 25 S. C., 572. Not against debts of another.—Wallace v. Johnson, 17 S. C., 454. Nor against a debt due a joint purchaser of land, on account of his interest therein, and for rents and profits.—Edwards v. Edwards, 14 S. C., 11. Nor against a distress warrant.—Harley v. Weathersbee, 21 S. C., 243. Widow's homestead in husband's land cannot be sold under judgment on her individual debt.—Hanford v. Wynn, 22 S. C., 309. As to debt contracted before amendment of Constitution in 1880, the question of homestead must be determined by the original Constitution of 1868.—Norton v. Bradham, 21 S. C., 375. Subsequent judgment having no lien on the land cannot compel judgment creditor for purchase money to first exhaust the homestead.—*Ex parte* Kurz, 24 S. C., 468. Nor so compel senior judgment when, by consent, it has been paid out of other lands without equities reserved.—Shell v. Young, 32 S. C., 462; 11 S. E., 299. Costs of junior judgment binding homestead postponed to senior judgment, not binding.—Bank v. Goodman, 33 S. C., 601; 11 S. E., 785. Not allowed against mortgage.—Shelor v. Masca, 2 S. C., 233; Homestead Association v. Enslow, 7 S. C., 1; Rosenberg v. Lewis, 7 S. C., 344; Smith v. Malone, 10 S. C., 39; City Council v. Caulfield, 19 S. C., 201; Reid v. McGowan, 28 S. C., 74; 5 S. E., 215. But in surplus after its satisfaction.—Calmes v. McCracken, 8 S. C., 87. Though subsequent judgment creditor having lien on the land might, prior to Constitution of 1895, in equity compel mortgagee to first exhaust the homestead.—Bank v. Harbin, 18 S. C., 425; Bowen v. Barksdale, 33 S. C., 142; 11 S. E., 640. But not having such lien, he cannot compel mortgagee to do so.—*Ex parte*

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Carraway, 28 S. C., 233; 5 S. E., 597. Assignment thereof—the right to—may be decided on rule against Sheriff to compel to sell.—Kirby v. Woods, 5 S. C., 1; Douglass v. Craig, 18 S. C., 371; Charles v. Charles, 18 S. C., 385. And rule will be discharged when debtor has only a homestead.—King v. McCarley, 32 S. C., 264; 10 S. E., 1075. Application for may be made before levy.—Nance v. Hill, 26 S. C., 227; 1 S. E., 897. Sale thereof made without claim or objection does not estop debtor from homestead in land.—Myers v. Ham, 20 S. C., 522. It cannot be impeached collaterally.—McKeown v. Carroll, 5 S. C., 75. When made under existing laws, it is fixed in amount and not affected by subsequent legislation.—Keller v. Myers, 5 S. C., 11. Legislature can neither extend or restrict the exemption allowed by the Constitution.—Duncan v. Barnett, 11 S. C., 333. Not to be assigned under executions levied that do not bind where there are executions that do bind it.—Agnew v. Adams, 17 S. C., 365. But proceeds should be applied to oldest judgment.—Lawrence v. Grambling, 19 S. C., 461. Return of appraisers. By two is valid.—Bank v. Evans, 28 S. C., 521; 6 S. E., 821. Exceptions thereto within thirty days after Sheriff filed it with Clerk are within time.—Kerchner v. Singletary, 15 S. C., 535. Upon hearing thereof the power of the Court to order reassignment may be exercised more than once.—*Id.* And conclusion of Judge as to the good cause shown therefor will not be disturbed on appeal.—*Id.* But Court holding return valid against all creditors but one cannot conditionally vacate it unless that one be paid at a given time.—*Ex parte* Young, 29 S. C., 298; 7 S. E., 499. Irregularity does not invalidate assignment of homestead.—Agnew v. Adams, 26 S. C., 101; 1 S. E., 414.

As to hearing on exceptions to the return of the commissioners.—Bleckley v. Shirley, 58 S. C., 52; 37 S. E., 503.

The exceptions must be filed; personal service on adverse party not sufficient.—*Ex parte* Ransey, *in re* Chafee; 54 S. C., 517; 32 S. E., 522.

In ascertaining the exemption the value of the debtor's interest in the land is the proper basis.—Bank v. Gibbs, 54 S. C., 579; 32 S. E., 690.

Equitable interest as homestead.—McNair v. Moore, 70 S. C., 551; 30 S. E., 107. Homestead cannot be claimed against debt secured by equities.—Hallman v. George, 70 S. C., 408; 50 S. E., 24. Must be set up.—Hallman v. George, 70 S. C., 408; 50 S. E., 24. Lien to joint never attached where state was less than \$1,000.00 in value.—*Ex parte* Miley, 73 S. C., 325; 63 S. E., 535. Creditor who has suit pending may except to return by appraisers and proceedings to enforce a prior judgment.—*In re* Wylie, 63 S. C.,—; 41 S. E., 320.

Sec. 3386. When thirty days shall have elapsed after the filing of the return of said appraisers, setting off a homestead to any debtor, according to the provisions of the preceding Section, and no exceptions have been filed against such return, or if such return be finally heard and approved, such debtor may have such return recorded in the office of the Register of Mesne Conveyances of the County in which the same is located; and upon such return being so recorded a forty days after the proceedings have become final, the title to the homestead so set off and assigned shall be forever discharged from all debts of said debtor then existing or thereafter contracted.

Return to be recorded.
Civ. '02, § 2627.

No exceptions being filed, the return cannot be collaterally attacked.—Miller v. Crim, 52 S. C., 574; 30 S. E., 635; *ex parte* Ransey, 54 S. C., 517; 32 S. E., 522. Assignment of homestead not binding upon creditors by junior

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judgments until recorded.—*Choise v. Charles*, 7 S. C., 171. Nor does it exempt the property from sale until returned and recorded.—*Ryan v. Pettigrew*, 7 S. C., 146; *Bull v. Rowe*, 13 S. C., 355; *Youngblood v. Lathen*, 20 S. C., 370. A plat annexed to the return need not be recorded; and the Clerk's failure to record it will not invalidate the assignment.—*Adams v. Agnew*, 15 S. C., 36. The proceedings merely designate the specific property to which the homestead has attached.—*Ketchin v. McCarley*, 26 S. C., 1; 11 S. E., 1099.

When Sheriff shall sell premises.

Civ. '02, § 2628.

Sec. 3387. Whenever, in the assignment of a homestead as provided in Section 3385 of this Chapter, the appraisers shall find that the premises exceed the value of one thousand (1,000) dollars, and that the same cannot be divided without injury to the remainder, they shall make and sign under oath, an appraisal thereof, and deliver the same to the Sheriff, who shall within ten days thereafter deliver a copy thereof to the head of the family claiming the homestead, or to some member of the family of suitable age to understand the nature thereof, with a notice attached that unless the person so claiming the homestead shall pay to said Sheriff the surplus of the appraised value over and above one thousand (1,000) dollars within sixty days thereafter, such premises will be sold; and on failure to pay such surplus in the time limited, the Sheriff shall advertise and sell the said premises, and out of the proceeds of such sale shall pay into the office of the Clerk of the Circuit Court one thousand (1,000) dollars, which shall be applied, under the order of the Circuit Judge, upon the application of the head of the family, in the purchase of a homestead of that value. The residue in the hands of the Sheriff, if any, after paying all expenses incident to the appraisement and the sale of the property, shall be applied by him to any executions in his hands, according to law: *Provided*, That no sale shall be made unless a greater sum than one thousand (1,000) dollars shall be bid therefor: *Provided, further*. That if, after notice, the party claiming the homestead pays or causes to be paid, the surplus over one thousand (1,000) dollars, he shall, upon recording the return and receipt of the Sheriff for such surplus, endorsed on said return, as provided in preceding Section of this Chapter, hold the property so appraised and set off, freed and discharged from all debts and demands then existing against such parties, but, as to such surplus, not from debts thereafter con-

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racted, like proceedings to the foregoing being in any case allowable for the recovery of all after contracted debts.

This Section is not unconstitutional.—*Simonds v. Halthcock*, 24 S. C., 507; *Id.*, 26 S. C., 595; 2 S. E., 616. Tender by defendant to the Sheriff of the excess over \$1,000 within sixty days after the remittitur of judgment on appeal from hearing of the return was filed is within the time required.—*Simonds v. Halthcock*, 26 S. C., 595; 2 S. E., 616. Upon confirming such return by the appraisers the Court properly ordered the Sheriff to proceed according to law; an order of sale would have been premature.—*Bank v. Evans*, 28 S. C., 521; 5 S. E., 321.

Sec. 3388. If the husband be dead, the widow and children; if the father and mother be dead, the children living on the homestead, whether any or all such children be minors or not, shall be entitled to have the family homestead exempted in like manner as if the husband or parents were living; and the homestead so exempted shall be subject to partition among all the children of the head of the family in like manner as if no debts existed: *Provided*, That no partition or sale in that case shall be made until the youngest child becomes of age, unless, upon proof satisfactory to the Court hearing the case, such sale is deemed best for the interest of such minor or minors.

Homestead
to widow and
children.

Civ. '02, §
2629.

The widow cannot obtain homestead exemption for her sole use apart from the children—*Gelger v. Gelger*, 57 S. C., 521; 35 S. E., 1032; *ex parte Worley*, 49 S. C., 41; 26 S. E., 949. A person acquiring land under devise from her grandfather has no homestead rights in it by reason of an assignment of homestead made during her father's lifetime while he owned a life estate in the land.—*Wilson v. Counts*, 52 S. C., 218; 29 S. E., 648. The family of a debtor who died before the Constitution of 1868 is entitled to the homestead. *In re Kennedy*, 2 S. C., 216; *ex parte Strobel*, 2 S. C., 309. A widow without children is entitled thereto.—*Moore v. Parker*, 13 S. C., 486; *Bradford v. Rodlesperger*, 17 S. C., 9. The widow with no children of her own living homestead assigned to her in 1879, the stepchildren, being all adults, and none residing with her, could not enforce partition of the land during her life.—*Yoe v. Hanvey*, 25 S. C., 94. Only one homestead can be allowed for children of deceased debtor.—*Bank v. Senn*, 25 S. C., 572. A widow's claim of homestead cannot be subordinated to mortgage debt contracted by executors of her husband.—*Jefferies v. Allen*, 29 S. C., 501; 7 S. E., 828. Not barred by receipt of rents and profits of the land.—*Id.* A decree by court in partition against widow and children does not deprive them of homestead before sale.—*McMaster v. Arthur*, 33 S. C., 512; 12 S. E., 308. Children of age living apart from their parents are entitled to share in the exemption.—*Ex parte Worley*, 54 S. C., 208; 32 S. E., 307; 49 S. C., 41; 26 S. E., 949. A homestead may be partitioned between the children on the death of the widow.—*Stewart v. Blalock*, 45 S. C., 61; 22 S. E., 774.

Where there are no minor children the homestead may be partitioned at once.—*Saunders v. Strobel*, 64 S. C., 489; 42 S. E., 429. By accepting dower a widow is barred from participating in partition of homestead.—*Kennedy v. Kennedy*, 74 S. C., 541; 54 S. E., 773.

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No waiver to
defeat right of
homestead:
proviso as to
property
aliened or
mortgaged.

Civ. '02, §
2630.

Sec. 3389. No waiver of the right of homestead shall defeat the right before assignment except it be by deed of conveyance or by mortgage, and only as against the mortgage debt; and no judgment creditors or other creditors whose lien does not bind the homestead shall have any right or equity to require that a lien which embraces the homestead and other property shall first exhaust a homestead. *Provided*, That after a homestead in lands has been set off and recorded the same shall not be waived by deed of conveyance, mortgage or otherwise unless the same be executed by both husband and wife if both be living.

Equitable mortgage.—Farmers Assn v. Bunch, 47 S. C., 453; 25 S. E., 21. Homestead in proceeds of sale of land under contract to sell.—*Ex parte Allison*, 45 S. C., 338; 23 S. E., 62. Under Constitution of 1868, junior judgment creditors, but not unsecured creditors, could compel mortgagee to exhaust homestead before resorting to other property.—*Bank v. Brice*, 47 S. C., 134; 24 S. E., 1038; *Pearson v. Pearson*, 59 S. C., 367; 37 S. E., 511. Prior to the amendment of 1896, homestead was barred by a devise to pay debts.—*Beaty v. Richardson*, 56 S. C., 173; 34 S. E., 73. Devise after homestead is set off.—*Bostick v. Chovin*, 55 S. C., 427; 33 S. E., 508. See also *Hendrix v. Seaborn*, 25 S. C., 481. Sale under foreclosure of mortgage and judgments.—*Bradford v. Buchanan*, 89 S. C., 237; 17 S. E., 501. A conveyance of homestead by the head of the family before the Constitution of 1895.—*Watson v. Neal*, 38 S. C., 90; 16 S. E., 833. Failure to designate homestead not a waiver.—*Gray v. Putnam*, 51 S. C., 97; 28 S. E., 149.

Homestead
in personal
property.

Civ. '02, §
2631. 1904,
XXIV, 412.

Sec. 3390. The personal property of the head of any family residing in this State, whether entitled to a homestead exemption in lands or not, to the extent of five hundred dollars, shall be exempt from attachment, levy or sale; and the personal property, consisting of necessary wearing apparel, and tools and implements of trade, not to exceed the value of three hundred dollars, the property of any person not the head of a family, shall be exempt from attachment, levy or sale. In case the right of such exemption be disputed by the creditors, the officer in whose hands the process is lodged shall cause the same to be ascertained and appraised, subject to the right of either creditor or debtor to except to the same, as provided by law; and all exempted property, so ascertained and appraised, by appraisers appointed and sworn for that purpose, and the return of which has been duly made, filed and recorded, as provided in Sections 3385 and 3386, shall vest absolutely in the party freed from all debts of the debtor then existing or thereafter contracted, whether such debtor retain or sell the property.

A judgment debtor entitled to homestead exemption in money—Gray v. Putnam, 51 S. C., 97; 28 S. E., 149. The Legislature could exempt as homestead only such articles of personal property as were enumerated in Article I., Sec. 32, of the Constitution of 1868, before it was amended in 1880.—Duncan v. Barnett, 11 S. C., 333. Before such amendment in 1880 only such articles of personal property as were named in the Constitution could be assigned as homestead.—Duncan v. Barnett, 11 S. C., 333. This exemption of personal property, whether the party was entitled to homestead in land or not, was Constitutional before the amendment to the Constitution in 1880.—Oliver v. White, 18 S. C., 240. Prior to amendment of Constitution in 1880, it did not exempt money from seizure.—Bank v. Northrop, 19 S. C., 73. Brother living with sister in her house is head of a family and is entitled to chattel exemption.—Moyer v. Drummond, 32 S. C., 165; 10 S. E., 52. A partner is entitled thereto against his individual creditors out of his interest in partnership assets after the partnership debts are paid.—*Id.*; *Ex parte* Karish, 32 S. C., 437; 11 S. E., 298. Effect of marriage after levy and before sale; real property.—Rollings v. Evans, 23 S. C., 316. Personalty.—Pender v. Lancaster, 14 S. C., 25. But if head of family at the time, he is entitled.—Chafee v. Rainey, 21 S. C., 11. Automobile not exempt in hands of one not the head of a family.—Eastern Mfg. Co. v. Thomas, Sheriff, 82 S. C., 509; 64 S. E., 401.

Sec. 3391. In case any woman, having a separate estate, shall be married to the head of a family who has not of ^{When a married woman has homestead.} his own sufficient property to constitute a homestead, as ^{Civ. '02, § 2632.} hereinbefore provided, said married woman shall be entitled to a like exemption, to be ascertained and set off in the same way, and with the same effect, as provided for the head of a family: *Provided*, That there shall not be an allowance of more than one thousand (1,000) dollars worth of real estate, and not more than five hundred (500) dollars worth of personal property, to the husband and wife jointly.

Lands of husband and wife taken together to make up homestead.—McNaghan v. McEachern, 47 S. C., 446; 25 S. E., 296.

Sec. 3392. The exemptions contained in the preceding sections of this Chapter shall not extend to an attachment, ^{What property not exempt from levy and sale.} or sale in any mesne or final process to secure or enforce ^{Civ. '02, § 2633.} the payment either of taxes or of obligations contracted for the purchase of said homestead, or the erection or making of improvements or repairs thereon, or for the purchase of said personal property: *Provided*, The Court or authority issuing said process shall certify thereon that the same is issued for some one or more of said purposes and no other: *Provided, further*, The yearly products of said homestead shall be subject to attachment, levy and sale to secure or enforce the payment of obligations contracted for provisions or other necessary articles purchased, or advances in money or merchandise procured to be used or expended in the

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production of the same, or of other obligations contracted in the production of the same, and of none other; but the Court issuing the process therefor shall certify thereon that the same is issued for the said purpose and no other.

Judge may certify that judgment is for purchase money, although so stated in the complaint and at a subsequent term of the Court.—*Green v. Spann*, 25 S. C., 273; *Burnside v. Watkins*, 30 S. C., 459; 9 S. E., 518. *Willingham v. Willingham*, 55 S. C., 441; 33 S. E., 500. Money lent to purchase land is not purchase money.—*Amick v. Amick*, 59 S. C., 70; 37 S. E., 41.

No homestead against city taxes.—*Oliver v. White*, 18 S. C., 235. Purchaser at tax sale takes free from claim of homestead.—*Shell v. Duncan*, 2 S. C., 548; 10 S. E., 330. No homestead against debt for purchase money.—*Calhoun v. Calhoun*, 2 S. C., 283. But there is against a process on account for the purchase money in part only and for other purposes.—*Burnside v. Watkins*, 30 S. C., 459; 9 S. E., 518. A note for money borrowed to purchase money is not a contract for the purchase of the homestead.—*Calmes v. McCracken*, 8 S. C., 87. Nor is a new bond given and accepted for old bond for purchase money.—*Adams v. Agnew*, 15 S. C., 36. No homestead against debt for improvements thereon.—*Allen v. Harley*, 3 S. C., 41. *All v. Goodson*, 33 S. C., 229; 11 S. E., 703. Such certificate is necessary as to real estate.—*Burnside v. Watkins*, 30 S. C., 459; 9 S. E., 518. But seems not to be as to personalty, though not determined.—*Ex parte Lantz*, 32 S. C., 365; 11 S. E., 206. Certificate of endorsement required only as it plifies the proof of the fact; but when the fact appears otherwise it is necessary to protect Sheriff in selling.—*Adams v. Agnew*, 15 S. C., 36. *Oliver v. White*, 18 S. C., 35. Certificate not being endorsed on the process for purchase money, homestead allowed.—*Adams v. Agnew*, 15 S. C., 36. Certificate cannot be endorsed on process for purchase money in part only.—*Burnside v. Watkins*, 30 S. C., 459; 9 S. E., 518. But not allowed where such certificate was not endorsed in execution for city taxes.—*Oliver v. White*, 18 S. C., 35.

Obligation for purchase money.—*McNair v. Moore*, 64 S. C., 82; 41 S. E., 829.

When the Court may order a sale of the homestead to be reserved in money.

Civ. '02, § 2634.

Sec. 3393. Whenever in any cause now or hereafter pending in the Court of Common Pleas in any County of this State the question of the right of any parties to a homestead or other like exemption in and to any property involved in said cause shall be made and adjudicated or otherwise brought to the attention of the Court, it shall be competent for the Court in all cases where the real property in respect to which the homestead is claimed shall be found by said Court to exceed the sum of one thousand dollars, and in all cases where the personal property in respect to which an exemption is claimed shall be found by said Court to exceed the sum of five hundred dollars, in its discretion, either direct a sale of the entire property and provide for the payment of the amount of the exemption out of the proceeds of sale, or it may, where a division of kind shall appear to said Court to be practicable, direct that the homestead and personal property exempted

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either be assigned as otherwise provided in this Chapter. In cases where the property shall be so sold as above and a sum of money shall be taken from the proceeds of sale as the exempted property, the Court shall make such order relative to the investment or other disposition thereof as shall secure the rights of all parties interested.

Sec. 3394. Whenever the head of any family, married woman, widow, or children, shall be entitled to an estate or right of homestead as hereinbefore provided, and no process has been lodged with any officer against such homestead, the party or parties entitled to such homestead may apply at any time by petition to the Master of said County, or if there be no Master therein, then, and in that event, to the Clerk of the Court for said County, to have the same appraised and set off. The Master, or if there be no Master in said County, the Clerk of the Court, shall, thereupon, after giving public notice by advertising the intention of such party or parties to have his or their homesteads set off, once a week for four weeks, in a paper published in the County where the land lies, and in case no paper is published in the County, then by posting the notice on the door of his office and in three other public places, for a like length of time, appoint three disinterested persons, resident in the County, who, having been duly sworn, shall proceed to appraise in the manner hereinbefore provided, and set off, metes and bounds, such homestead, and make return to him. If no complaint shall be made by any creditor, or other person interested, against said appraisal and setting off of the homestead within thirty days after the return of the appraisers, the same shall be confirmed by the Circuit Court at the next ensuing term thereof, and shall be recorded as provided in Section 3386 of this Chapter: *Provided*, That no appraisement shall be made or return filed until the notice has expired. But if exceptions to such appraisement and return be filed by any person interested therein, within the said period of thirty days after filing the return of said appraisers, the Circuit Court, upon good cause being shown, may order a reappraisement and assignment of the homestead by other appraisers to be appointed by the Court. Personal property, to the extent and of the

How homestead set off when no process lodged; how confirmed.

Civ. '02, § 2635.

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kind hereinbefore stated, may be exempted and set off in like manner.

Childless widow entitled to this remedy.—*Moore v. Parker*, 13 S. C., 44. The application must be made to the Master or Clerk of Court; the jurisdiction conferred is exclusive.—*Ex parte Lewie*, 17 S. C., 153; *ex parte* *By* 20 S. C., 246; *Myers v. Ham*, 20 S. C., 322. And the proceeding cannot be originally instituted in the Court of Common Pleas.—*Scruggs v. Foot*, 15 S. C., 274; *Myers v. Ham*, 20 S. C., 522; *Brown v. Williamson*, 37 S. C., 151. 15 S. E., 926. Circuit Court may adjudge the right of homestead in action properly pending when necessary to its determination.—*Munro v. Jeter*, 24 S. C., 29; *Swandale v. Swandale*, 25 S. C., 389; *Bridges v. Howell*, 27 S. C., 425; 3 S. E., 790; *Bank v. Kinard*, 28 S. C., 101; 5 S. E., 464. Exceptions to homestead need not be filed before return of appraisers to Master.—*Ex parte Kurz*, 24 S. C., 468. Decree for sale of land may be considered as "process" and justify such application to the Master.—*McMaster v. Arthur*, 33 S. C., 512; 12 S. E., 308. It is inconsistent to maintain separate proceedings for homestead and partition at the same time.—*Williams v. Mallory*, 28 S. C., 601; 11 S. E., 1068. Circuit Court has not original jurisdiction.—*Ex parte Brown*, 37 S. C., 181; 15 S. E., 1019.

Ex parte Miley, *in re Warneke v. Kearse*, 73 S. C., 325; 53 S. E., 535

Penalty for violations by officer.

Civ. '02, § 2636.

Sec. 3395. No Sheriff, Constable, or other officer, whose duty it is to enforce executions, shall proceed in any other manner than is prescribed in this Chapter; and should any officer sell any real estate, or sell or remove any personal property, in violation of the provisions of this Chapter, and of Section 28 of Article III of the Constitution of the State of South Carolina, he shall be guilty of a misdemeanor, and on conviction thereof shall, for the first offense, be fined in the sum of not less than five hundred (500) dollars, nor more than one thousand (1,000) dollars, and, upon conviction for the second offense, his office shall be deemed vacant, and, in either case, he shall be liable in damages, to the parties injured, for all injuries by reason of his wrongful levy or sale.

Refusal to execute process unless indemnified by plaintiff in execution *Corry v. Tate*, 48 S. C., 548; 26 S. E., 794.

Demand for homestead was necessary to create liability for damages prior to this Act.—*Oliver v. White*, 18 S. E., 235.

Compensation to appraisers, Sheriff, &c., how paid; to be paid in advance, compensation to Master or Clerk.

Civ. '02, § 2637.

Sec. 3396. Appraisers appointed to set off the homestead under this Chapter, shall receive as compensation for such service two dollars each per day, and five cents a mile for every mile of necessary travel. The surveyor shall receive five dollars (\$5) for all services incidental to setting off the homestead, but exclusive of all necessary disbursements. The Magistrate or other officer who qualifies the appraisers shall receive for such service seventy-five cents, and five

ents a mile for every mile of necessary travel. The surveyor shall receive for his services a sum not exceeding ten dollars (\$10). The foregoing fees shall be paid by the officer executing the process out of the property of the debtor, or, in case of the homestead set off to the widow or minor children, out of the estate of the deceased, by the executor or administrator thereof: *Provided*, That the officer, before setting off the homestead and exemption, in any case, shall be entitled to demand and receive from the defendant in execution, in advance, a sum of money sufficient to cover the necessary fees and costs herein allowed. Whenever a homestead is set off as provided in Section 3394, the Master or Clerk, as the case may be, shall receive as compensation five dollars for all services, including the record of the proceedings, but excluding the advertising, which shall not exceed five dollars, and which fees and costs shall be paid in advance by the party claiming the homestead and exemption.

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CHAPTER LXXX.

Assignments for Benefit of Creditors.

Sec.

3397. Creditors to appoint agents to act with assignees.

3398. Creditors to be called together; sales before appointment of agents, void.

3399. Refusal of assignees to call creditors together.

3400. Majority of debts represented to govern; assignees and agents of creditors to act jointly.

3401. Refusal of creditors to appoint agents.

Sec.

3402. Proceeds of sales to be deposited.

3403. Umpire to be appointed in case of disagreement.

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3405. Commissions allowed.

3406. Assignments by insolvent debtors, giving priority & preference, void.

3407. All transactions within sixty days of insolvency, void.

3408. Creditor may attack assignment before judgment.

This Chapter must be construed as subordinate to the Bankruptcy law, and in so far as it conflicts, suspended while the Bankruptcy Act continues in force.—*Ex parte Chase*, 62 S. C., 353; 38 S. E., 718.

Creditors to appoint agents to act with assignees.

Civ. '02, § 2638.

Section 3397. Whenever any debtor shall assign his or her property, for the benefit of his or her creditors, it shall be lawful for the said creditors to name and appoint an agent or agents, equal in number to the assignees, to act in their behalf, jointly with the assignee or assignees named and appointed by the assignor.

The assignment vests all estate of the debtor in the assignee upon his acceptance.—*Cohen v. Gibbes*, 1 Hill, 206; *Wallace v. Foster*, 15 S. C., 214. *Miller v. Sligh*, 10 Rich. Eq., 247; *Bryce v. Foot*, 25 S. C., 467. Subject to unrecorded mortgage.—*Grube v. Lillenthal*, 51 S. C., 442; 29 S. E., 230. *Summers v. Bryce*, 36 S. E., 204; 15 S. E., 374. Without assent of creditors.—*Tennant v. Stoney*, Ball. Eq., 222. But upon failure of acceptance the title remains in assignor.—*Brooks v. Brooks*, 12 S. C., 422. It is not revocable at will of assignor.—*Beall v. Lowndes*, 4 S. C., 258; *Shubar v. Winch*, Chev., 218. Assignee should sue alone for the assets.—*Salas v. Clay*, 12 Rich., 558. He may have creditors, who obtained judgment against assignor after assignment, restrained from enforcing it against the assets.—*Howard v. Cannon*, 11 Rich. Eq., 23. Payment by debtor to creditor after notice of the assignment is invalid.—*Tilbets v. Weaver*, 5 Strob., 144. Creditor of assignor cannot discount his debt to assignor with debt due him for money paid as surety after assignment.—*Nettles v. Huggins*, 8 Rich., 273. Assignee may prosecute suit begun by debtor before assignment.—*Cleverly v. McLaugh*, 6 Rich., 517. But assignee cannot warrant real estate he sells.—*Welsch v. Davis*, 3 S. C., 110. The provisions of this Act as to administration of the assigned estate do not apply to foreign assignments, and do not render them void.—*Russell v. Tunno*, 11 Rich., 303. But assignments executed in other States containing provisions in conflict with those of this Chapter are void.—*Sheldon v. Blauvelt*, 29 S. C., 453; 7 S. E., 593; 1 L. E.

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685; *Ayers v. Desportes*, 56 S. C., 544; 35 S. E., 218. The agents so appointed have joint power and responsibility with the assignee.—*Mills v. Jackson*, 6 Rich., 487; *Miller v. Sligh*, 10 Rich. Eq., 247. They are both trustees.—*Miller v. Sligh*, 10 Rich. Eq., 247; *McIntyre v. McClenaghan*, 12 S. C., 185; *Ex parte Wiggins*, 1 Hill Ch., 354; *Farrar v. Farley*, 3 S. C., 11. But each is only liable for his own acts, and not for the acts of the others, except where he has contributed to them.—*Miller v. Sligh*, 10 Rich. Eq., 247. Neither can buy at his own sales.—*Ex parte Wiggins*, 1 Hill Ch., 354; *Farrar v. Farley*, 3 S. C., 11. Effect of release, principal and surety.—*Ragsdale v. Rank*, 45 S. C., 575; 23 S. E., 947.

Sec. 3398. It shall be the duty of the assignee or assignees, within ten days after the execution of the deed of assignment, to call the creditors together, to proceed to the appointment of their agent or agents; and all sales and transfers of property made by the assignee or assignees prior to the appointment of the agent or agents of the creditors, are hereby declared void and of no effect.

Creditors to be called together; sales before appointment of agents, void.

Civ. '02, § 2639.

Sec. 3399. In case the assignee or assignees delay, neglect, or refuse to assemble the creditors within the time herein prescribed and limited, it shall be lawful for the creditors to meet and appoint their agent or agents; and the said agent or agents, on application to and by order of the Judge of the Court of Common Pleas, shall take into their hands and possession all the property assigned, and of which the assignee would by law be entitled to the possession, and shall sell and dispose of the same agreeably to the deed of assignment.

Refusal of assignees to call creditors together.

Civ. '02, § 2640.

Sec. 3400. In the appointment of the agent or agents, the majority in amount of the debts represented by the creditors present at the meeting shall govern; and the agent or agents so appointed shall have equal power and authority with the assignee or assignees to sell and dispose of the property assigned, and distribute and pay the proceeds, according to the intent and provisions of the deed of assignment; and all sales, hypothecations, or other transfers of property, whether real or personal, shall be void and null, unless made with the consent and concurrence of the assignee or assignees and agent or agents, or a majority of them; and should the assignee or assignees and agent or agents be equally divided on any question, the same shall be decided by an umpire appointed as is hereafter provided.

Majority of debts represented to govern; assignees and agents of creditors to act jointly.

Civ. '02, § 2641.

Sec. 3401. Should the creditors, as aforesaid, refuse or neglect to appoint an agent or agents, in ten days after they have been called together by the assignee or assignees, the

Refusal of creditors to appoint agents.

Civ. '02, § 2642.

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assignee or assignees may forthwith proceed to sell or otherwise dispose of the assigned effects, without the concurrence of the said creditors.

Proceeds of
sales to be de-
posited.

Civ. '02, §
2643.

Sec. 3402. The proceeds arising from the sales of the property assigned shall be deposited for safe keeping in a national bank within the State, or some banking institution incorporated by the State, in the joint names of the assignee or assignees and agent or agents, and subject to their joint drafts.

Umpire to be
appointed in
case of dis-
agreement.

Civ. '02, §
2644.

Sec. 3403. In case of disagreement between the assignee or assignees and agent or agents, any of the Judges of the Courts of Common Pleas, at chambers, shall, on application of either of the parties, decide, and if deemed necessary, name and appoint an umpire to act jointly with the assignee or assignees and agent or agents.

Statement of
proceedings to
be made every
three months.

Civ. '02, §
2645.

Sec. 3404. It shall be the duty of the assignee or assignees and agent or agents, to lay, every three months, before the creditors, or such committee as they may appoint, an exact statement of their proceedings; the creditors or their committee may, however, call the assignee or assignees and agent or agents oftener to account; they may also direct and prescribe the time and mode of selling, and the terms of sale, order a distribution of the assets on hand, and a final close of the concern; and, in case of need, may revoke and dismiss their agent or agents, and name and appoint another in his stead; and the said assignee or assignees and agent or agents, failing or neglecting to lay the statement of their proceedings before the creditors or their committee, as herein directed, or whenever called on, or to obey or abide by their directions, shall be answerable for all damages resulting from their refusal or neglect, and forfeit the commission they might otherwise be entitled to.

Commissions
allowed.

Civ. '02, §
2646.

Sec. 3405. The commission due and owing to the assignee or assignees and agent or agents, for their trouble and labor, shall be five per centum on receiving, and two and a half per centum on paying, to be equally divided between them, that is to say, one-half to the assignee or assignees, and the other half to the agent or agents.

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Sec. 3406. Any assignment by an insolvent debtor of his or her property for the benefit of his or her creditors, in which any preference or priority is given to any creditor or creditors, of the said debtor by the terms of the said assignment over any other creditor or creditors, other than as to any debts due to the public, or in which any provision or disposition of the property so assigned is made or directed, other than that the same be distributed among all creditors of the said insolvent debtor equally, in proportion to the amount of their several demands, and without preference or priority of any kind whatsoever, save only as to debts due to the public, and save only as to such creditors as may accept the terms of such assignment and execute a release of their claim against the debtor, and except as hereinafter provided, such assignment shall be absolutely null and void, and of no effect whatsoever.

Assignments
by insolvent
debtors, giv-
ing priority
or preference,
void.

Civ. '02, §
2647.

Schedule of assets.—*Adler v. Cloud*, 42 S. C., 272; 20 S. E., 393. Who may attack.—*Mainhard v. Strickland*, 29 S. C., 491; 7 S. E., 838. A transfer of all one's property on valid consideration held not an assignment for creditors.—*Lanahan v. Bailey*, 58 S. C., 269; 36 S. E., 584; *Porter v. Stricker*, 44 S. C., 183; 21 S. E., 635. Insolvency and incompetency of assignee is ground of attack.—*Regenstein v. Pearlstein*, 30 S. C., 192; 8 S. E., 192. A *bona fide* assignment made, not for partial, but general benefit of all the creditors, and comprehending all the debtor's property, is not fraudulent.—*Bush v. Waring*, 1 Bay, 90. Merely placing certain debts at head of schedule gives no preference.—*Winslow v. Assignees*, 1 McC. Ch., 10. An assignment giving no preference to such creditors as may accept and release is valid.—*Vaughn v. Evans*, 1 Hill Ch., 414; *Nivlon v. Douglass*, 1 Hill Ch., 443; *Alken v. Price*, Dud., 59; *Pfeifer v. Dargan*, 14 S. C., 44; *Jaffray v. Steedman*, 35 S. C., 33; 14 S. E., 632. But it is void if made on the condition that all creditors accept and release.—*Jacob v. Corbett*, 1 Rich. Eq., 71; *LePrince v. Guillemot*, 1 Rich. Eq., 219; *Stewart v. Kerrison*, 3 S. C., 266; *Claffin v. Iseman*, 23 S. C., 416; *Trumbo v. Hamel*, 29 S. C., 520; 8 S. E., 83; *Clarke v. Baker*, 36 S. C., 420; 15 S. E., 614. But such an assignment is void if it gives any advantage to the assignor to the detriment of the creditors.—*Stewart v. Kerrison*, 3 S. C., 266. Partnership may assign partnership property alone, giving such preference to releasing creditors as the firm.—*Trumbo v. Hamel*, 29 S. C., 520; 8 S. E., 83; *Armstrong v. Jaffray*, 39 S. C., 498; 18 S. E., 150. But where partners assign both their individual and partnership assets, and give the individual creditors preference out of the individual assets, the assignment is void.—*Blair v. Black*, 31 S. C., 346; 9 S. E., 1033. When no time is fixed for acceptance upon the terms prescribed, creditors may accept at any time before the fund is distributed.—*Tennant v. Stoney*, 1 Rich. Eq., 222; *Adler v. Cloud*, 42 S. C., 272; 20 S. E., 393; *Beall v. Lowndes*, 4 S. C., 258; *Atlantic Co. v. Law*, 3 S. C., 606; 23 S. E., 955. Preference given accepting creditors within limited time.—*McElwee v. McGill*, 57 S. C., 12; 35 S. E., 401; *Trumbo v. Hamel*, 29 S. C., 520; 8 S. E., 83. But if time is fixed they must do so within the time.—*Pfeifer v. Dargan*, 14 S. C., 44; *Jaffray v. Steedman*, 35 S. C., 33; 14 S. E., 632. Acceptance in terms is not necessary, unless required; it may be presumed from conduct.—*Tennant v. Stoney*, 1 Rich. Eq., 222. But if required to be in writing, it must be so.—*Bank v. Walker*,

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12 Rich., 304; Hewitt v. Darlington Phosphate Co., 20 S. E., 804; 43 S. C., 5; Burgess v. Westmoreland, 38 S. C., 425; 17 S. E., 56. Acceptance and receipt of share of proceeds bind the creditor, and he cannot afterwards question the validity of the assignment.—Pierce, Butler & Co. v. Jones & Sons, 8 S. C., 278; Arnold v. Bailey, 24 S. C., 496. But where assignment requires both an acceptance and release in writing within a given time, the creditor must give both, to be entitled to preference; written acceptance alone not sufficient.—Jaffray v. Steedman, 35 S. C., 88; 14 S. E., 632. A complaint to set aside a sale and mortgage as void under this Section may state that they were made to creditors of the assignor.—Miller v. Hughes, 22 S. C., 530; 12 S. E., 419.

All transactions within 90 days of insolvency void.

Civ. '02, § 2648.

Sec. 3407. If any person, being insolvent, within ninety days before the making of any assignment by him or her of his or her property for the benefit of his or her creditors, with a view to give a preference to any creditor or person having a claim against him or her, or who is under any liability for him or her, procures or suffers any part of his or her property to be attached, sequestered, or seized on execution, or makes any payment, pledge, assignment, transfer, or conveyance of any part of his or her property, either directly or indirectly, absolutely or conditionally, the person receiving such payment, pledge, assignment, transfer, or conveyance of any part of his or her property, or to be benefited thereby, or by such attachment, having reasonable cause to believe such person to be insolvent, and that such attachment, sequestration, seizure, payment, pledge, assignment or conveyance is made in fraud of the provisions of this Chapter, the same shall be void, and the assignee may recover the property, or the value of it, from the person so receiving it, or so to be benefited. Nothing, however, in this Section shall be construed to invalidate any loan of actual value, or the security therefor, made in good faith upon a security taken in good faith, on the occasion of the making of such loan, or any security *bona fide* made for advances.

Constructive assignments giving preferences void.—Putney v. Friedman, 32 S. C., 492; 11 S. E., 337; Meinhard v. Youngblood, 41 S. C., 312; 19 S. E., 675. Mortgages held not to be.—Lamar v. Pool, 26 S. C., 241; 2 S. E., 322; McIntyre v. Ligon, 38 S. C., 457; 17 S. E., 253; Monaghan Bay Co. v. Dickson, 39 S. C., 146; 17 S. E., 696. Where the reservation is covered by the homestead it does not affect the validity of the assignment.—Haynes v. Hoffman, 46 S. C., 157; 24 S. E., 103. The term insolvent means not having sufficiency of property to pay debts under legal process.—Akers v. Rowan, 33 S. C., 451; 12 S. E., 165. The manifest object of this Section is to prevent an insolvent debtor from transferring his property for the benefit of one or more creditors to the exclusion of others, whether by deed of assignment or in any other mode.—Wilks v. Walker, 22 S. C., 104. It applies to

foreign assignments as well as domestic.—*Es parte* Dickinson, 29 S. C., 453; 7 S. E., 593. It only applies to an actual assignment or to what is tantamount to an assignment.—Verner v. McGhee, 26 S. C., 248; 2 S. E., 118; Lamar v. Pool, 26 S. C., 441; 2 S. E., 322. Archer v. Long, 32 S. C., 171; 11 S. E., 86; Putney v. Friesleben, 32 S. C., 492; 11 S. E., 337. It does not forbid the right of securing one creditor over another.—Magovern v. Richards, 27 S. C., 272; 3 S. E., 340. So where insolvent debtor transfers all of his property to one or more creditors by mortgage, bill of sale or deed, or in any mode intended to be an assignment for benefit of such creditors to exclusion of all other creditors, the transaction is void.—Wilks v. Walker, 22 S. C., 108; Austin v. Morris, 23 S. C., 393; Mann v. Poole, 40 S. C., 1; 18 S. E., 145; Meinhard v. Strickland, 29 S. C., 491; 7 S. E., 837; Mitchell v. Mitchell, 42 S. C., 475; 20 S. E., 405; Archer v. Long, 32 S. C., 171; 11 S. E., 86; Putney v. Friesleben, 32 S. C., 492; 11 S. E., 337. But a mortgage not so intended is not void.—Lamar v. Pool, 26 S. C., 441; 2 S. E., 322; Magovern v. Richards, 27 S. C., 272; 3 S. E., 340; Archer v. Long, 32 S. C., 171; 11 S. E., 86. But where one purchased stock of goods of insolvent, *bona fide*, and paid in part with a debt due him by vendor, the transaction is not in violation hereof.—Verner v. McGhee, 26 S. C., 248; 2 S. E., 118. Assignments are not void because they provide preference for liens and for counsel fees for services rendered for assignment.—Bryce v. Foot, 25 S. C., 67; Verner v. Davis, 26 S. C., 609; 2 S. E., 114. Akers v. Rowan, 36 S. C., 7; 12 S. E., 165. But are void when they give preference for legal services not so rendered.—Clark v. Baker, 36 S. C., 420; 15 S. E., 614. It matters not whether the preference is fraudulent or not.—Lamar v. Pool, 26 S. C., 441; 2 S. E., 322; Magovern v. Richard, 27 S. C., 272; 3 S. E., 340. And references in foreign assignments, there valid, are void here.—*Es parte* Dickinson, 29 S. C., 453; 7 S. E., 593. A mortgage not recovered for nineteen months, and then recorded within two days before assignment, is not made within ninety days before such assignment and not avoided by this section.—South Carolina Co. v. McPherson, 26 S. C., 431; 2 S. E., 267. Mortgage of insolvent debtor to secure a creditor, if not accepted with knowledge of the insolvency within ninety days before general assignment, is not void.—Magovern v. Richard, 27 S. C., 272; 3 S. E., 340. The Section is not restricted to conveyances to creditors alone; but a conveyance to his wife, by an insolvent debtor, as a preference, within ninety days before his assignment, is embraced in this Section, and is void.—Wagner v. Boynton, 29 S. C., 389; 7 S. E., 481. Mortgage of individual property by copartner.—Durham v. Hemphill, 45 S. C., 621; 24 S. E., 85. Reservation of property by prior fraudulent conveyance renders assignment void.—Younger v. Massey, 17 S. E., 711; 39 S. C., 115. Rights of creditors under assignment.—Ryttenberg v. Keels, 39 S. C., 203; 17 S. E., 441; McCreery v. Garvin, 39 S. C., 15; 17 S. E., 828. Where assignment is set aside.—Younger v. Massey, 41 S. C., 50; 19 S. E., 125.

In order to set aside deed as void under this Section it is necessary to show (1) that grantor was insolvent, (2) that it was intended to give an unlawful preference, and (3) that the grantee had cause to believe the first two facts. Meinhardt v. Ponder, 64 S. C., 354; 42 S. E., 169. Chattel mortgage void, when.—Secrest v. Ins. Co., 68 S. C., 378; 47 S. E., 10.

Sec. 3408. Whenever any debtor shall assign his or her property for the benefit of his or her creditors, it shall and may be lawful for any creditor or creditors of the said debtor, either by simple contract, specialty, or in any other manner, to institute proceedings against the said debtor, or the assignee named in the said assignment, or both, or any other person properly parties thereto, either to attack and

Creditor may attack assignment before judgment.

Civ. '02, § 2649.

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set aside the said deed of assignment, or to enforce the provisions thereof, or for any other purpose whatever, without first obtaining and entering up judgment against the said debtor upon the claim or demand so held by the said creditor or creditors.

Applied.—Austin v. Morris, 23 S. C., 393; Meinhard v. Strickland, 29 S. C., 491; 7 S. E., 838; Regenstein v. Pearlstein, 30 S. C., 192; 8 S. E., 550. Miller v. Hughes, 33 S. C., 530; 12 S. E., 419. Releases under mistake.—Whitehill v. Dacus, 49 S. C., 273; 27 S. E., 200.

Receivership on ground of fraudulent assignment.—Whilden v. Chapman, 80 S. C., 90.

TITLE VIII.

CHAPTER LXXXI.

Of the Prevention of Frauds and Perjuries.

SEC.	SEC.
3409. Parol leases, &c., shall have the force of estates at will only; proviso.	3414. Agreement reserving any interest in personal property to vendor or bailor void against creditors, &c., unless in writing and recorded; exceptions.
3410. No lease, &c., shall be assigned, &c., by parol.	3415. Promise to pay debt, or ratification after full age, must be by writing.
3411. Certain contracts void, unless in writing.	3416. No action on representations as to character, &c., unless same were in writing.
3412. Contracts for sale of goods for fifty dollars or more, when valid.	
3413. Parol gifts of chattels, when valid against creditors, &c.	

Who may object to testimony under this Chapter.—*Rapley v. Klugh*, 40 S. C., 134; 18 S. E., 680. Objection, how raised.—*Groce v. Jenkins*, 28 S. C., 172; 5 S. E., 352.

Section 3409. All estates, interests of freehold, or terms of years, or any uncertain interests of, in, to, or out of any lands, tenements, or hereditaments, made or created by livery and seizin only, or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized, by writing, shall have the force and effect of estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect; any consideration for making any such parol leases or estates, or any former law or usage, to the contrary notwithstanding, except leases not exceeding the term of one year from the time of entry, whereupon the rent reserved to the landlord during such term shall amount unto two-third parts, at the least, of the full improved value of the thing demised.

Parol leases, &c., shall have the force of estates at will only; proviso.
Civ. '02, § 2650.

Hillhouse v. Jennings, 60 S. C., 392; 38 S. E., 597; *Davis v. Pollock*, 36 S. C., 544; 15 S. E., 718; *Hellams v. Patton*, 44 S. C., 454; 22 S. E., 608. A written contract of sale of land may be rescinded and a rent contract instituted therefor.—*Mosely v. Witt*, 79 S. C., 141; 60 S. E., 520. Circumstances of signing bond may be shown in explanation thereof.—*Crawford v. Wrens*, 79 S. C., 59; 60 S. E., 236. Parol testimony is admissible to locate boundaries in deed.—*Marion County Lumber Co. v. Tilgham Lumber Co.*, 79 S. C., 54; 60 S. E., 33; *Holden v. Alexander*, 82 S. C., 441; 62 S. E., 1108;

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64 S. E., 400. Agency to buy land may be shown by parol.—Kraa v. Ladrum, 72 S. C., 556; 52 S. E., 421. Parol evidence inadmissible to show additional consideration.—Dixon v. S. A. L. Ry., 83 S. C., 394; 65 S. E. 351; Cline v. Farmers' Oil Mill, 83 S. C., 204; 65 S. E., 272. Estoppel of holder equitable title, 72 S. C., 47; Pollock v. Pegues, 51 S. E., 514.

No leases,
&c., shall be
assigned, &c.,
by parol.

Civ. '02, §
2651.

Sec. 3410. No leases, estates, or interests, either of freehold or term of years, or any uncertain interests of, in, to, or out of any lands, tenements, or hereditaments, shall at any time be assigned, granted, or surrendered, unless it be by deed or note, in writing, signed by the party so assigning, granting, or surrendering the same, or his agent thereunto lawfully authorized by writing, or by act and operation of law.

Charles v. Byrd, 29 S. C., 544; 8 S. E., 1; Davis v. Pollock, 36 S. C., 54; 15 S. E., 718.

Part performance.—Baker v. Hussey, 63 S. C., 551; 41 S. E., 758.

Statute of Frauds must be pleaded to give right to object to evidence because obnoxious to the Statute.—Coward v. Boyd, 79 S. C., 134; 60 S. E. 311.

Promises and
agreements by
parol.

Civ. '02, §
2652.

Sec. 3411. No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate; or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person; or to charge any person upon any agreement made upon consideration of marriage; or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them; or upon any agreement that is not to be performed within the space of one year from the making thereof: unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some person thereunto by him lawfully authorized.

As to contract by executor or administrator.—Tarvell v. Witherspoon, 1 McC., 486. As to promise to answer for debt of another.—Murrell v. Greenland, 1 DeS., 332; Stevens v. Winn, 3 Brev., 17; Gunnels v. Stewart, 3 Brev., 52; Jones v. Ballard, 2 Mill, 113; Hughes v. Crayon, 2 Mill, 257; Ayer v. Hay, 2 Mill., 365; Pigott v. Slan, 1 N. & McC., 124; Alken v. Durel, 2 N. & McC., 370; Caldwell v. McKain, 2 N. & McC., 555; Leland v. Crayon, 1 McC., 100; McBride v. Watts, 1 McC., 384; Mease v. Wagner, 1 McC., 205; Madden v. McCray, 1 McC., 486; Atkinson v. Barfield, 1 McC., 575; Boyce v. Owens, 2 McC., 208; Lecat v. Taval, 3 McC., 158; Barnstine v. Eggart, 3 McC., 162; Caston v. Moss, 1 Ball., 14; Roche v. Chaplin, 1 Ball., 419; McMorris v. Herndon, 2 Ball., 56; Alken v. Cheeseborough, 1 Hill, 172; Cohen v. Hard, 2 Hill, 304; Corbett v. Cochran, 3 Hill, 41; Tyler v. Given, 3 Hill, 48; Corbett v. Cochran, Riley, 44; Tyler v. Given, Riley, 56; Richardson v. Richardson, 1 McM., 280; Pope v. Fort, 2 McM., 60; Brown v. Stroud, 2 McM., 272; Simpson v. Nance, 1 Speer, 4; Strohecker v. Cobb,

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1 Speer, 349; Savage v. Kinloch, Speer's Eq., 464; Kinloch v. Brown, 2 Speer, 284; Bird v. Muhlinbrink, 1 Rich., 199; Dunlap v. Thorne, 1 Rich., 213; Kinloch v. Brown, 1 Rich., 223; Thomas v. Croft, 2 Rich., 113; Antonio v. Clissay, 3 Rich., 201; Durham v. Arledge, 1 Strob., 5; Tindal v. Touchberry, 3 Strob., 177; Hindman v. Langford, 3 Strob., 207; Taylor v. Drake, 4 Strob., 431; Hill v. Smith, 12 Rich., 698; Griffin v. Rembert, 2 S. C., 410; Williams v. Caldwell, 4 S. C., 100; Black v. White, 13 S. C., 37; Duncan v. Heller, 13 S. C., 95; Felder v. Walker, 24 S. C., 596; Robertson v. Hunter, 29 S. C., 9; 6 S. E., 850; Ollever v. Duval, 32 S. C., 273; 10 S. E., 1070; Willoughby v. Crosby, 51 S. C., 462; 29 S. E., 242; Speer v. Meschine, 46 S. C., 505; 24 S. E., 329. Part payment does not take promise to pay debt of another out of the statute.—Milwee v. Jay, 47 S. C., 430; 25 S. E., 208. As to contract or sale of land.—Denton v. McKenzle, 1 DeS., 280; Givens v. Calder, 2 DeS., 171; Hutchinson v. Hutchinson, 4 DeS., 77; Cosack v. Descoudres, 1 McC., 425; Howell v. Howell, Harp. Eq., 158; Cornwell v. Spence, Harp. Eq., 258; Smith v. Smith, 1 Rich. Eq., 130; Schmidt v. Gatewood, 2 Rich. Eq., 162; Poag v. Sandifer, 5 Rich. Eq., 170; Cox v. Cox, 5 Rich. Eq., 365; Johnston v. LaMotte, 6 Rich. Eq., 351; Church v. Farrow, 7 Rich. Eq., 378; Lee v. Lee, 11 Rich. Eq., 574; Hyde v. Cooper, 13 Rich. Eq., 250; Garrett v. Malone, 8 Rich., 335; Davis v. Moore, 9 Rich., 215; Tramwell v. Tramwell, 11 Rich., 471; Jones v. McMichael, 12 Rich., 176; Wetmore v. Rhett, 12 Rich., 565; Billings v. Clinton, 6 S. C., 102; Hill v. Smith, 12 Rich., 698; Lyles v. Kirkpatrick, 9 S. C., 267; Coleman v. Chester, 14 S. C., 286; Harrison v. Bailey, 14 S. C., 334; Coney v. Timmons, 16 S. C., 384; Mims v. Chandler, 21 S. C., 492; Nesbitt v. Cavender, 27 S. C., 1; 2 S. E., 702; Boozer v. Teague, 27 S. C., 348; 3 S. E., 551; Martin v. Patterson, 27 S. C., 21; 2 S. E., 859; Hunter v. Mills, 29 S. C., 72; 6 S. E., 907; Charles v. Byrd, 29 S. C., 544; 8 S. E., 1; Shuford v. Shingler, 30 S. C., 612; 8 S. E., 99; Lamar v. Wright, 31 S. C., 60; 9 S. E., 736; Rhode v. Tuten, 34 S. C., 96; 13 S. E., 676; Dixon v. Hockaday, 36 S. C., 60; 15 S. E., 342; Davis v. Pollock, 36 S. C., 544; 15 S. E., 718; Coleman v. Curtis, 36 S. C., 607; 15 S. E., 709; 16 S. E., 770. As to contracts not to be performed within a year.—Gee v. Hicks, Rich. Eq. Ca., 5; Thompson v. Gordon, 3 Strob., 196; Compton v. Martin, 5 Rich., 14; Gadsden v. Lance, McM. Eq., 92; Jones v. McMichael, 12 Rich., 176; Carter v. Brown, 3 S. C., 298; Walker v. R. R. Co., 6 S. C., 80; 1 S. E., 366; Duckett v. Pool, 33 S. C., 238; 11 S. E., 689; Wise v. Wise, 60 S. C., 426; 38 S. E., 794; Hillhouse v. Jennings, 60 S. E., 92; 38 S. E., 597; Turnipseed v. Sirrine, 57 S. C., 550; 35 S. E., 757; Alexander v. McDaniel, 56 S. C., 252; 34 S. E., 405. As to what shall constitute a sufficient writing of the agreement.—Davis v. Robertson, 1 Mill, 71; Isaac v. McGrath, 1 N. & McC., 563; Douglass v. Spears, 2 N. & McC., 207; Meadows v. Meadows, 3 McC., 458; Anderson v. Chick, Bail. Eq., 118; McMorris v. Herndon, 2 Bail., 56; Rogers v. Collier, 2 Bail., 581; Trustees v. Wiley, 2 Hill Ch., 584; Tyler v. Givens, 3 Hill, 48; 1b., Riley, 56; Woodward v. Pickett, Dudley, 30; Carter v. Bennett, Dud., 142; Toomer v. Davidson, Nev., 68; Secrist v. Twitty, 1 McM., 255; Entz v. Mills, 1 McM., 453; Hatcher v. Hatcher, McM. Eq., 311; Draper v. Patina, 2 Speer, 292; Savage v. Kinloch, Speer Eq., 464; Christie v. Simpson, 1 Rich., 407; Elfe v. Gadsden, 2 Rich., 373; Brown v. Brown, 1 Strob. Eq., 363; Sams v. Fripp, 10 Rich. Eq., 447; Hyde v. Cooper, 13 Rich. Eq., 250; Griffin v. Rembert, 2 S. C., 410; Mims v. Chandler, 21 S. C., 492; Humbert v. Brisbane, 25 S. C., 506; 3 S. E., 5; Boozer v. Teague, 27 S. C., 363; 3 S. E., 551; Groce v. Jenkins, 3 S. C., 172; 5 S. E., 352; Kennedy v. Grambling, 33 S. C., 367; 11 S. E., 981; Willis v. Hammond, 41 S. C., 153; 19 S. E., 310. Part performance. Watts v. Witt, 39 S. C., 356; 17 S. E., 822; Kennemore v. Kennemore, 26 S. C., 251; 1 S. E., 881; Boozer v. Teague, 27 S. C., 348; 3 S. E., 551.

Promise to pay debt of another, where main purpose of promissor is to serve purpose of his own.—Turner v. Lyles, 68 S. C., 397; 48 S. E., 301. Promise to pay debt of another upon forbearance to enforce immediately an existing lien.—Ellis Co. v. Carroll, 68 S. C., 376; 47 S. E., 679. Agreement not void.—Welborn v. Dixon, 70 S. C., 108; 49 S. E., 232. See also McGee

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v. Cunningham, 69 S. C., 470; 48 S. E., 473. Agreement as to purchase at judicial sale; chilling bids.—Jarrot v. Kuker, 78 S. C., 510; 59 S. E., 533.

Contracts for sale of goods for fifty dollars or more, when valid.

Civ. '02, § 2653.

Sec. 3412. No contract for the sale of any goods, wares and merchandise for the price of fifty dollars or upward shall be allowed to be good except the buyer shall accept part of the goods so sold and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

Jackson v. Watts, 1 McC., 288; Toomer v. Dawson, Cheves, 68; Gadsden v. Lance, McM. Eq., 87; Thompson v. Gordon, 3 Strob., 196; Taylor v. Drake, 4 Strob., 431; Winship v. Buzzard, 9 Rich., 103; Wolf v. Sharp, 10 Rich., 9; Barbour v. Disher, 11 Rich., 347; Suber v. Pullin, 1 S. C., 273; Bulwinkle v. Cramer, 27 S. C., 376; 3 S. E., 776; Louisville Co. v. Lorick & Lowrance, 2 S. C., 533; 8 S. E., 8; Melchers v. Springs, 33 S. C., 279; 11 S. E., 738; Woods v. Cramer, 34 S. C., 508; 13 S. E., 660; Smith v. Evans, 36 S. C., 15 S. E., 344; Turnipseed v. Sirrine, 57 S. C., 559; 35 S. E., 758.

Barr v. Satcher, 72 S. C., 35; 51 S. E., 530.

Parol gifts.

Civ. '02, § 2654.

Sec. 3413. No parol gift of any chattel shall be valid against subsequent creditors or purchasers or mortgagees, except where the donee shall live separate and apart from the donor, and actual possession shall, at the time of the gift, be delivered to and remain and continue in the donee, his or her executors, administrators, or assigns.

Skell v. McKnight, 1 Bay, 64; Johnson v. Dillard, 1 Bay, 232; Avant v. Sweet, 2 Bay, 528; Reid v. Colcock, 1 N. & McC., 592; Hatton v. Banks, 1 N. & McC., 221; Blake v. Jones, Bail. Eq., 141; Sprouse v. Littlejohn, 22 S. C., 360; Bennett v. Cook, 28 S. C., 353; 6 S. E., 28.

Agreement reserving any interest in personal property to vendors or bailor void against creditors, etc., unless in writing and recorded; exceptions.

Civ. '02, § 2655, 1910, XXVI, 747.

Sec. 3414. Every agreement between the vendor and vendee, bailor or bailee of personal property, whereby the vendor or bailor shall reserve to himself any interest in the same, shall be null and void as to subsequent creditors (whether lien creditors or simple contract creditors) or purchasers for valuable consideration without notice unless the same be reduced to writing and recorded in the manner now provided by law for the recording of mortgages; but nothing herein contained shall apply to livery stable keepers, innkeepers, or any other persons letting or hiring property for temporary use of or for agricultural purposes, or depositing such property for the purpose of repairs or work or labor done thereon.

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As to vendor and vendee.—Before Act of 1843.—Dupree v. Harrington, 301; Reeves v. Harris, 1 Ball., 563; Bennett v. Sims, Rice, 422. After Act 1843 and before amendment 1882.—Cochran v. Roundtree, 3 Strob., 217; Almadge v. Oliver, 14 S. C., 522; Straul v. Screven, 19 S. C., 445; Herring Co. v. Cannon, 21 S. C., 212. As to bailor and bailee.—Ludden & Bates S. Music House v. Dusenbury, 27 S. C., 464; 4 S. E., 60.

Agreement of conditional sale must be recorded.—Armour & Co. v. Ross, 78 S. C., 201; 78 S. C., 294; 55 S. E., 815; 58 S. E., 941, 1135. Purchaser's value and subsequent (joint) creditors defined.—Armour & Co. v. Ross, 78 S. C., 294; 58 S. E., 941, 1135. Unrecorded lien cannot effect landlord's lien.—Simpson v. McDonald, 79 S. C., 277; 60 S. E., 674.

Sec. 3415. No action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy or upon any ratification after full age of any promise (except upon contracts for necessities) made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

Action against infants—when.

Civ. '02, § 2656.

Malinas v. Bennett, 33 S. C., 285; 11 S. E., 968.

A simple acknowledgment after coming of age is not sufficient.—Steele v. Exchange Bank, 70 S. C., 407; 60 S. E., 951. Cited in Exchange Bank v. McMillan, 76 S. C., 561; 57 S. E., 630.

Sec. 3416. No action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, repute, credit, ability, trade, or dealings of any person, to the intent or purpose that such other person may obtain credit, money, or goods thereon, unless such representation or assurance be made in writing, signed by the party to be charged therewith, or by some person thereunto by him specially authorized.

Action on representations as to character.

Civ. '02, § 2657.

New Home Sewing Machine Co. v. Wray, 28 S. C., 86; 5 S. E., 603.

TITLE IX. OF THE DOMESTIC RELATIONS.

- CHAPTER LXXXII. *Husband and Wife.*
- CHAPTER LXXXIII. *Guardians and Wards and Minors.*
- CHAPTER LXXXIV. *Change of Names.*
- CHAPTER LXXXV. *Masters, Apprentices and Laborers.*

CHAPTER LXXXII. Husband and Wife.

- ARTICLE 1. Marriage.
- ARTICLE 2. Certain Rights and Liabilities of Husband and Wife.

ARTICLE I. MARRIAGE.

SEC.	SEC.
3417. Who may contract matrimony	3420. Marriage when former husband or wife living; exceptions.
3418. Validity; if doubted, how affirmed; decree conclusive.	3421. Certain marriages legalized
3419. Court of Common Pleas; authority of on question of validity; proviso.	3422. Children of such marriages legitimized.
	3423. Intermarriage of races prohibited.

Who may contract matrimony.
Civ. '02, § 2658.

Section 3417. All persons, except idiots and lunatics, not prohibited by this Section, may lawfully contract matrimony. No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister

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No woman shall marry her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

The promise of future marriage between parties living in concubinage does not make marriage, although that intercourse continue.—North v. Valk, Dud. Eq., 212. Nor will any engagements to marry in the future.—Fryer v. Fryer, Rich. Eq. Ca., 85. Marriage is a civil contract, whereby the parties take each other *in presenti* for man and wife.—Fryer v. Fryer, Rich. Eq. Ca., 85. Without any particular formality.—Stringfellow v. Scott, Rich. Eq. Ca., 109; Bowers v. Bowers, 10 Rich. Eq., 551; James v. Mickey, 25 S. C., 270. But proof that two persons lived together as man and wife is conclusive of their marriage, if not rebutted.—Allen v. Hall, 2 N. & McC., 114; State v. Hilton, Rich., 434. But where party has contracted a valid marriage and then marries a second time, his cohabitation and acknowledgment of the marriage relation between him and the second wife is not evidence of the validity of the second marriage.—State v. Whaley, 10 S. C., 500. Person *non compos mentis* cannot contract marriage.—Foster v. Means, Speer Eq., 569. Insanity *in delirium tremens* will avoid a contract of marriage.—Clement v. Mattison, 3 Rich., 93. Separation; power of court as to.—Rhame v. Rhame, 1 C. Eq., 197; Converse v. Converse, 9 Rich. Eq., 535. Domicile of husband that of the family, and it is the duty of the wife to follow him.—Hair v. Hair, 10 Rich. Eq., 163; Wise v. Wise, 60 S. C., 426; 38 S. E., 794. Hallums v. Hallums, 74 S. C., 407; 54 S. E., 613.

Sec. 3418. When the validity of a marriage shall be denied, how affirmed. Validity, if denied, how affirmed. Civ. '02, § 2659. Denied or doubted by either of the parties, the other may institute a suit for affirming the marriage; and, upon due proof of the validity thereof, it shall be decreed to be valid; and such decree shall be conclusive upon all persons concerned.

Sec. 3419. The Court of Common Pleas shall have authority to hear and determine any issue affecting the validity of contracts of marriage, and to declare said contracts void for want of consent of either of the contracting parties, or for any other cause going to show that, at the time the said proposed contract was made, it was not a contract: *Provided*, that such contract has not been consummated by the cohabitation of the parties thereto. Validity of, how determined and declared. Civ. '02, § 2660.

cases before Act.—Mattison v. Mattison, 1 Strob. Eq., 387; Duke v. Fullen, 5 Rich. Eq., 121; Bowers v. Bowers, 10 Rich. Eq., 551.

Sec. 3420. All marriages contracted while either of the parties has a former wife or husband living, shall be void: *Provided*, That this Section shall not extend to a person whose husband or wife shall be absent for the space of Marriages; when void. Proviso. Civ. '02, § 2661.

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seven years, the one not knowing the other to be living during that time; nor to any person who shall be divorced, or whose first marriage shall be declared void by the sentence of a competent Court.

As to the effect of husband being *civilliter mortuus* on property rights—Wright v. Wright, 2 DeSaus., 242. A husband being more than seven years absent, and reported to be dead or not heard from, the wife may marry again—Woods v. Woods, 2 Bay, 476; Boyce v. Owens, 1 Hill, 8. The first wife will be presumed to be alive until seven years after the time she was last heard of, unless shown to have died in the meantime.—Proctor v. McCall, 1 Bail., 298. The presumption arising from seven years' absence under this Section is of the fact of death only, and not as to the time thereof; but when the presumption is based upon the common law period of twenty years, it is that the death occurred at the commencement of that period.—Chapman v. Cooper, 5 Rich., 452. And where a wife marries within the seven years, the presumption of her innocence, with circumstances, may outweigh the presumption of the husband's living—*Id.* Where a husband married the second time, about six years after his absent wife was last known to be alive, but when he had received information by letter that she was dead, his marriage was held valid; she not having been heard of for forty years.—Canady v. George, 6 Rich. Eq., 103. But it seems that this presumption must be confined in its effect to exemption from charges of bigamy or other criminal and intentional violations of the marriage vows. If the absent husband return or be proved otherwise to be living at the time of the second marriage, the second marriage is void and the issue spurious.—Duke v. Palmer, 12 Rich. Eq., 121.

Rights and
privileges conferred on certain marriages.

Civ. '02, § 2662.

Sec. 3421. All persons in this State who, previous to their actual emancipation, had undertaken and agreed to occupy the relation to each other of husband and wife and are cohabiting as such, or in any way recognizing the relation as still existing at the time of the passage of this Chapter, whether the rites of marriage have been celebrated or not, shall be deemed husband and wife, and be entitled to all the rights and privileges, and be subject to all the duties and obligations of that relation, in like manner as if they had been duly married according to law.

Robertson v. McCauley, 61 S. C., 411; 39 S. E., 570; Davenport v. Caldwell, 10 S. C., 317; State v. Whaley, 10 S. C., 500; Myers v. Ham, 20 S. C., 522; James v. Mickey, 26 S. C., 270; 2 S. E., 130. This Section applies equally to marriage of a free person of color with a slave, as where both parties were slaves.—Dingle v. Mitchell, 20 S. C., 502. Only intended to legalize such marriages as were morally good.—Clement v. Riley, 33 S. C., 66; 11 S. E., 609. Does not legalize a marriage of a free negro man with a slave where he afterwards, before emancipation, married a free woman of color.—Callahan v. Callahan, 36 S. C., 454; 15 S. E., 727.

Marriage of colored persons in 1868 governed by general law, applicable to white persons.—*Ex parte Romans*, 78 S. C., 210; 58 S. E., 614.

Sec. 3422. The children of such marriages shall be deemed legitimate; and when the parties shall have ceased to cohabit

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in consequence of the death of the woman or from other causes, all of the children of the woman, recognized by the man to be his, shall be deemed legitimate: *Provided, however,* That no provisions of Section 3421 and 3422 shall be deemed to extend to persons who have agreed to live in concubinage after their emancipation.

Certain children legitimized.

Civ. '02, § 2663.

Davenport v. Caldwell, 10 S. C., 317; Dingle v. Mitchell, 20 S. C., 202; Myers v. Ham, 20 S. C., 522. Only intended to legitimize issue of marriages morally good.—Clement v. Riley, 33 S. C., 66; 11 S. E., 609. And to make the issue, when there has been a separation, the legitimate heirs of the mother.—*Id.* When a free man of color marries a slave, and then, before emancipation, marries a free woman of color, at his death both wives surviving, the children of both wives are his legal heirs.—Callahan v. Callahan, 36 S. C., 454; 15 S. E., 727.

Lloyd v. Rawl, 63 S. C., 219; 41 S. E., 312; Robertson v. McCaully, 61 S. C., 419; Knox v. Moore, 41 S. C., 355; Watson v. Elerbe, 77 S. C., 232; 7 S. E., 855.

Sec. 3423. It shall be unlawful for any white man to intermarry with any woman of either the Indian or negro races, or any mulatto, mestizo, or half-breed, or for any white woman to intermarry with any person other than a white man, or for any mulatto, half-breed, negro, Indian, or mestizo, to intermarry with a white woman; and any such marriage, or attempted marriage, shall be utterly null and void and of none effect.

Intermarriage of races prohibited.

Civ. '02, § 2664.

State v. Paulk, 18 S. C., 514; Flood v. News & Courier, 71 S. C., 112; 50 S. E., 637.

ARTICLE II.

CERTAIN RIGHTS AND LIABILITIES OF HUSBAND AND WIFE.

Sec. 3424. Married women may hold property separate from their husbands.
3425. Earnings of married women her separate estate.
3426. May bequeath and convey, as if unmarried; property descends as does property of husband.

Sec. 3427. May purchase property, take conveyances, and make contracts, as if unmarried; husband not liable for debts of wife.
3428. Marriage settlements must describe property included therein or have a schedule annexed.
3429. Tenancy by courtesy abolished.

Section 3424. The real and personal property of a married woman, whether held by her at the time of her marriage or accrued to her thereafter, either by gift, grant, inheritance, devise, purchase, or otherwise, shall not be sub-

Married women may hold property separate from their husbands.

Civ. '02, § 2665.

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ject to levy and sale for her husband's debts, but shall be her separate property.

As to tenancy by entirety.—*Bomar v. Mullins*, 4 Rich. Eq., 80; *McLeod v. Tarrant*, 39 S. C., 271; 17 S. E., 773; 20 L. R. A., 846; G., C. & N. Ry. Co. v. Scott, 38 S. C., 84; 16 S. E., 185, 839.

Under this Section, and Const. Art. XVII., Sec. 9, a married woman may maintain an action for damages for an unauthorized levy on her property to satisfy her husband's debt.—*Holtzclaw v. Gassaway*, 52 S. C., 551; 30 S. E. 399. Before the Constitution of 1868 a wife could exercise no powers over property settled to her use except those conferred by the instrument creating the trust.—*Reid v. Lamar*, 1 Strob. Eq., 27; *Creighton v. Clifford*, 6 S. C. 188; *Witsell v. Charleston*, 7 S. C., 88; *Oliver v. Grimbail*, 14 S. C., 334. This Section not retrospective, and the vested rights of the husband in lands of wife before the Constitution of 1868 not affected thereby.—*Bouknight v. Epling*, 11 S. C., 71; *Shuler v. Bull*, 15 S. C., 421. Nor are vested rights of creditors affected thereby.—*Clawson v. Hutchinson*, 11 S. C., 323. Such Constitution did not make a settlement upon the wife of her lands acquired before.—*Id.* But her interest in land acquired before it is her separate property.—*Kincaid v. Anderson*, 33 S. C., 260; 11 S. E., 766. So in personalty not reduced to possession.—*Trustees v. Bryson*, 34 S. C., 401; 13 S. E. 619. Such construction would make it violative of the Constitution of the United States.—*Id.* But in construing the acts of a married woman as to her separate estate prior thereto, the Constitution of 1868 may be looked to as showing the policy of the State as to control of married women over their separate estates.—*Oliver v. Grimbail*, 14 S. C., 556. The Constitution of 1868 only intended to protect the property of a married woman and not to confer new powers upon her by a change of her legal status.—*Peiser v. Campbell*, 15 S. C., 581; *Townsend v. Brown*, 16 S. C., 92; *Aultman v. Rush*, 26 S. C., 517; 2 S. E., 402; *Bridgers v. Howell*, 27 S. C., 425; 3 S. E., 790; *Gwynn v. Gwynn*, 27 S. C., 525; 4 S. E., 229. It did not empower her to mortgage her separate estate.—*Aultman v. Rush*, 26 S. C., 517; 2 S. E., 402. It gave her no general power to contract.—*Gwynn v. Gwynn*, 27 S. C., 525; 4 S. E., 229. Since the Constitution of 1868 a married woman may acquire separate property by gift from her husband.—*State v. Pitts*, 12 S. C., 180; *Gerald v. Gerald*, 28 S. C., 442; 6 S. E., 290; *Grantham v. Grantham*, 34 S. C., 504; 13 S. E., 675. But mere use and enjoyment of personal property purchased by her husband does not create her separate estate therein.—*Id.* A bequest to a daughter by a father in 1861, to be free from debts and control of husband, could be properly paid to the daughter herself after the Constitution of 1868.—*Witte v. Clarke*, 17 S. C., 313. What is her separate property.—*DeLoach v. Sarratt*, 55 S. C., 254; 32 S. E., 2.

Kennington v. Catal, 68 S. C., 470; 47 S. E., 719.

Earnings of married women.

Civ. '02, § 2666.

Sec. 3425. All the earnings and income of a married woman shall be her own separate estate, and shall be governed by the same provisions of law as apply to her other separate estate.

Prior to this Act, see *Boozar v. Addison*, 2 Rich. Eq., 273; 46 Am. Dec. 43; *Bridges v. Howell*, 27 S. C., 425; 3 S. E., 790; *Grantham v. Grantham*, 34 S. C., 504; 13 S. E., 675; *Hairston v. Hairston*, 35 S. C., 298; 14 S. E. 634.

May bequeath and convey, as if unmarried; property descends as does property of husbands.

Civ. '02, § 2667.

Sec. 3426. A married woman shall have power to bequeath, devise, or convey her separate property in the same manner and to the same extent as if she were unmarried; and, dying intestate, her property shall descend in the

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the same manner as the law provides for the descent of the property of husbands; and all deeds, mortgages, and legal instruments of whatever kind, shall be executed by her in the same manner, and have the same legal force and effect, as if she were unmarried.

This power is absolute.—*Phillips v. Oswald*, 42 S. C., 71; 20 S. E., 18; *Carroll v. Thomas*, 54 S. C., 520; 32 S. E., 497. Assignment of mortgage.—*Angston v. Smyley*, 38 S. C., 121; 16 S. E., 771. Married woman has power to alienate her equitable estate in stock held in trust simply for her at adoption of the Constitution of 1868.—*Witsell v. Charleston*, 7 S. C., 88. But has no such power where the trustee has contrary power.—*Rabb v. Flenniken*, 38 S. C., 278; 7 S. E., 597. As to her separate property, there may be differences between the wife and her husband, as if she were a covert.—*McLure v. Lancaster*, 24 S. C., 278. A gift from her to her husband may be inferred. *Id.* This Section does not confer the power to make such legal instruments, but only declares the mode of their execution in pursuance of power elsewhere given. *Aultman v. Rush*, 26 S. C., 517; 2 S. E., 402. And giving security by mortgage is neither a bequest, a devise nor an alienation.—*Id.* Her power to sell is not limited to "a sale, pure and simple, for valuable consideration," benefiting her separate estate; but allows disposition by gift or otherwise.—*Booker v. Wingo*, 29 S. C., 116; 7 S. E., 49.

Sec. 3427. A married woman shall have the right to purchase any species of property in her own name, and to take any and every legal conveyances therefor, and to bind herself by contract, in the same manner and to the same extent as if she were unmarried, which contracts shall be legal and obligatory, and may be enforced at law or in equity by or against such married woman in her own name, apart from her husband: *Provided*, That the husband shall not be liable for the debts of the wife contracted prior to or after her marriage, except for necessary support, and that of her minor children residing with her.

Powers of married women.

Civ. '02, § 2668.

Enforcement of her contracts.

Liability of husband.

The provision relieving the husband of his common law liability for debts of his wife was held not retrospective in *Clawson v. Hutchinson*, 11 S. C., 166; *Terry v. Hopkins*, 1 Hill. Eq., 1. Action against husband for support furnished wife and children.—*Hentzer v. Margenhoff*, 42 S. C., 427; 20 S. E., 278. Liability where separated through husband's fault.—*Clement v. Son*, 3 Rich. L., 93. Where separated through fault of wife.—*Williams v. Lince*, 3 Strob., 490.

Provisions on contracts prior to the Constitution of 1895. The wife could be bound as copartner with husband on contract not relating to her separate estate.—*Collins v. Hall*, 55 S. C., 336; 33 S. E., 466; *Gwynn v. Gwynn*, 27 S. C., 525; 4 S. E., 229; *Vannerson v. Cheatham*, 41 S. C., 329; 3 S. E., 614. The Act of 1887 refers only to declaration of intent to bind the separate estate in conveyances, mortgages and like formal instruments.—*W. v. Suber*, 39 S. C., 536; 18 S. E., 125; *Collins v. Hall*, 55 S. C., 336; 3 S. E., 466. *Singluff v. Tindal*, 40 S. C., 504; 19 S. E., 137. Effect of declaration of intent.—*Rigby v. Logan*, 45 S. C., 651; 24 S. E., 56. Does not apply to absolute conveyances.—*Carroll v. Thomas*, 54 S. C., 520;

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32 S. E., 497. The burden of proof was upon the party attempting to show contract was one within the power of a married woman.—*Collins v. Hall*, 5 S. C., 336; 38 S. E., 466; *Christensen v. Wells*, 52 S. C., 499; 30 S. E., 611. *Earley v. Law*, 42 S. C., 330; 20 S. E., 32; *Mortgage Co. v. Mixson*, 38 S. C., 437; 17 S. E., 244; *Simon v. Sabb*, 56 S. C., 38; 33 S. E., 799; *Pelzer v. Durham*, 37 S. E., 354; 16 S. E., 46; *Reid v. Stevens*, 38 S. C., 519; 17 S. E., 358; *Bailey v. Seymour*, 42 S. C., 322; 20 S. E., 62; *Kuker v. Carter*, 42 S. C., 84; 20 S. E., 22. She might borrow money and purchase or pay claim against her husband.—*Ellis v. Cribb*, 55 S. C., 328; 33 S. E., 484; *Pelzer v. Cantey*, 52 S. C., 515; 30 S. E., 595. Moral obligation to pay for goods accepted and used by her was a sufficient consideration for a note.—*Ferguson v. Harris*, 39 S. C., 323; 17 S. E., 782. While a married woman had absolute power to convey, where she gave a power of sale in a mortgage as security the power fell with mortgage.—*Dunbar v. Foreman*, 40 S. C., 490; 19 S. E., 186.

This Section, so far as it purports to enlarge the powers of a married woman, beyond the terms of the Constitution of 1868 on that subject is within the plenary power of the Legislature and not unconstitutional.—*Pelzer v. Campbell*, 15 S. C., 581. While it gives the power to purchase, it does not give the power to execute a mortgage to secure the purchase for her husband.—*Aultman v. Gilbert*, 28 S. C., 303; 5 S. E., 806. Or secure his debt by mortgage of her separate property.—*Connor v. Edwards*, 36 S. C., 563; 15 S. E., 706.

Married woman may bind herself by contract.—*Ross v. Linder*, 12 S. C., 592. Prior to this Act of 1882, amending Act of 1870, the wife could become surety for her husband.—*Witsell v. Charleston*, 7 S. C., 88; *Clarks v. Hall*, 15 S. C., 602; *Witte v. Wolf*, 16 S. C., 256; *Witte v. Clark*, 17 S. C., 313. And become surety for the firm of which her son was a member.—*Pelzer v. Campbell*, 15 S. C., 581. Or for her son.—*State v. Moses*, 18 S. C., 366. And she could mortgage lands conveyed before or after the Act of 1870 to her sole and separate use.—*Witte v. Wolf*, 16 S. C., 256; *Gleaton v. Gerson*, 20 S. C., 514; 7 S. E., 833; *Chambers v. Bookman*, 32 S. C., 435; 17 S. E., 340. She could bind herself by acceptance of a draft.—*Loe v. Schmidt*, 18 S. C., 604. A judgment confessed by a married woman is valid having been renewed in 1876 and 1883, is valid.—*Crenshaw v. Julian*, 22 S. C., 283; 2 S. E., 133. Subsequent to the Act of 1882, and prior to the Act of 1887, a married woman could only make such contracts as actually related to her separate property, and cannot otherwise bind herself.—*Habenicht v. Rawls*, 24 S. C., 461; *Aultman v. Rush*, 26 S. C., 517; 2 S. E., 402; *Brown v. Thompson*, 27 S. C., 500; 4 S. E., 345; *Gwynn v. Gwynn*, 27 S. C., 436; 4 S. E., 220; *Brown v. Prevost*, 28 S. C., 123; *Aultman v. Gilbert*, 28 S. C., 303; 5 S. E., 806; *Booker v. Wingo*, 29 S. C., 116; 7 S. E., 49; *Livingston v. Shingler*, 30 S. C., 159; 8 S. E., 842; *Taylor v. Baker*, 30 S. C., 288; 9 S. E., 115; *McCord v. Blackwell*, 31 S. C., 125; 9 S. E., 777; *Erwin v. Lowry*, 31 S. C., 330; 9 S. E., 961; *Harris v. McCaslan*, 31 S. C., 420; 10 S. E., 100; *Gwynn v. Gwynn*, 31 S. C., 482; 10 S. E., 221; *Salinas v. Turner*, 33 S. C., 231; 11 S. E., 702; *Griffin v. Earle*, 34 S. C., 246; 13 S. E., 473. But she is still liable on contract made for benefit of her separate estate, and can subject such estate to liability for its performance.—*Brown v. Thompson*, 27 S. C., 500; 4 S. E., 345; *Dial v. Agnew*, 28 S. C., 454; 6 S. E., 295; *Farr v. Brown*, 29 S. C., 598; 6 S. E., 937; *Tribble v. Poor*, 30 S. C., 97; 8 S. E., 541; *McCord v. Blackwell*, 31 S. C., 125; 9 S. E., 777; *Kincaid v. Anderson*, 33 S. C., 260; 11 S. E., 766; *Brice v. Miller*, 35 S. C., 537; 15 S. E., 700; *Neal v. Bleckley*, 36 S. C., 468; 15 S. E., 733. Although made through husband or other agent.—*Greig v. Smith*, 29 S. C., 426; 7 S. E., 610; *Harrell v. Thompson*, 31 S. C., 436; 10 S. E., 95; *Scottish Co. v. Deas*, 35 S. C., 14; 14 S. E., 486. A mere declaration of intention to bind her separate estate was not sufficient.—*Hibernia Institution v. Luhn*, 34 S. C., 175; 13 S. E., 357. But it is not necessary for party enforcing contract to show that it was so made.—*Taylor v. Barker*, 30 S. C., 288; 9 S. E., 115; *Brown v. Thompson*, 31 S. C., 436; 7 S. E., 610; *Chambers v. Bookman*, 32 S. C., 435.

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11 S. E., 349; Hibernia Institution v. Luhn, 34 S. C., 175; 18 S. E., 357; Griffin v. Farle, 34 S. C., 246; 13 S. E., 473. Yet proof of her representation to that effect is sufficient prior to Act of 1887.—Brown v. Thompson, 31 S. C., 436; 7 S. E., 610; Wallace v. Carter, 32 S. C., 314; 11 S. E., 97; Chambers v. Bookman, 32 S. C., 455; 11 S. E., 349; Salinas v. Turner, 33 S. C., 231; 11 S. E., 702; Scottish Co. v. Deas, 35 S. C., 42; 14 S. E., 486; Nott v. Thompson, 35 S. C., 461; 14 S. E., 940. Unless other party knew the truth, and was not misled by her representation, then she is not estopped thereby.—Gwynn v. Gwynn, 31 S. C., 482; 10 S. E., 221; Schmidt v. Dean, 31 S. C., 498; 10 S. E., 228, 1104; Goodglon v. Vaughn, 32 S. C., 499; 11 S. E., 351; Kincaid v. Anderson, 33 S. C., 260; 8 S. E., 541; Carrigan v. Drake, 36 S. C., 354; 15 S. E., 339. But she is estopped when the representation is made in her negotiable note, and she is sued by a *bona fide* endorsee thereof.—Nott v. Thompson, 35 S. C., 461; 14 S. E., 940. It is not necessary that contract did prove to benefit her separate estate.—Howard v. Kitchens, 31 S. C., 490. Where a married woman borrows money for her own use, it is a contract as to her separate estate and enforceable against it.—Greig v. Smith, 29 S. C., 426; 7 S. E., 610; Brown v. Thompson, 31 S. C., 436; 10 S. E., 95; Howard v. Kitchens, 31 S. C., 490; 10 S. E., 224; Gwynn v. Gwynn, 31 S. C., 482; 10 S. E., 221; Reid v. Stevens, 38 S. C., 519; 17 S. E., 358; Bratton v. Lowry, 39 S. C., 383; 17 S. E., 832; Schmidt v. Dean, 31 S. C., 498; 10 S. E., 228; Law v. Lipscomb, 31 S. C., 504; 10 S. E., 226, 1104; Building Association v. Jones, 32 S. C., 308; 10 S. E., 1079; Hibernia Institution v. Luhn, 34 S. C., 175; 13 S. E., 357; Scottish Co. v. Deas, 35 S. C., 42; 14 S. E., 486; Ellis v. American Co., 36 S. C., 45; 15 S. E., 267. She cannot make a contract of partnership.—Gwynn v. Gwynn, 27 S. C., 525; 4 S. E., 229; Hagan v. Hoover, 33 S. C., 219; 11 S. E., 725. And her separate estate not liable for contracts of pretended partnership with her.—*Id.*; Welsiger v. Wood, 36 S. C., 424; 15 S. E., 597. Is not bound by mortgage given to secure debt of another.—Sibley v. Parks, 28 S. C., 607; 5 S. E., 809; Bates v. American Mortgage Co., 37 S. C., 99; 16 S. E., 883. Residing with her husband on the land recovered, she is not liable for damages and costs.—Shuford v. Shingler, 30 S. C., 612; 8 S. E., 799. After judgment it is too late to claim that mortgage was void because made by a married woman.—Jennings v. Harrison, 33 S. C., 206; 11 S. E., 695. Agency of husband for wife.—Walker v. Walker, 17 S. C., 329. Estoppel by conduct, to assert title; renouncing dower on conveyance by husband.—Campbell v. Sloan, 21 S. C., 301. The Act of 1891 not retrospective.—Collins v. Hall, 55 S. C., 336; 33 S. E., 466.

Sec. 3428. All marriage contracts, deeds, and settlements, shall therein describe, specify, and particularize the real and personal estate thereby intended to be included, comprehended, conveyed, and passed, or shall have a schedule thereto annexed, containing a description and the particulars and articles of the real and personal estate intended to be conveyed and passed by such marriage contracts, deeds, and settlements; which said schedule shall be thereto annexed, and signed, executed, and delivered by the parties therein interested, at the time of the signing, executing, and delivering the said marriage contracts, deeds, and settlements, and be subscribed by the same witnesses who subscribed the said marriage contracts, deeds, or settlements, and shall be recorded therewith; otherwise, and in default of such schedule and recording thereof as aforesaid, the said mar-

Marriage must describe settlements, must describe property included therein or have a schedule annexed.

Civ. '02, § 2669.

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riage contracts, deeds, and settlements shall be deemed and declared to be fraudulent, null, and void, with respect to and against creditors and *bona fide* purchasers or mortgagees.

As to sufficiency of description.—*McCartney v. Ferguson*, 2 Hill Eq., 190; *Ramsey v. Richardson*, Riley Eq., 271; *McDowell v. Chambers*, 1 Strob., 347; 47 Am. Dec., 539; *Rivers v. Thayer*, 7 Rich. Eq., 136. As to recording—*Ward v. Wilson*, 1 DeSaus., 401; *White v. Palmer*, 1 McMull. Eq., 115; *Fowle v. Woodward*, Speer Eq., 233; *LePrince v. Guillemot*, 1 Rich. Eq., 187; *Hengenbottom v. Peyton*, 8 Rich. Eq., 398; *Gibbes v. Cobb*, 7 Rich. Eq., 54; *Rivers v. Thayer*, 7 Rich. Eq., 136; *Barsh v. Riols*, 9 Rich. L., 162; *Garner v. Garner's Ex'ors*, 1 DeSaus., 437; *Forrest v. Warrington*, 2 DeSaus., 254; *Croft v. Arthur*, 3 DeSaus., 223; *Taylor v. Herriot*, 4 DeS., 227; *Boatwright v. Wingate*, 3 Brev., 423; *Alston v. Alston*, 3 Brev., 469; 2 Tread. Coast. 604; *Chaney v. Lubbock*, 1 N. & McC., 444; *Givens v. Branford*, 2 McC., 152; *Harrison v. McCall*, 1 Harp. Eq., 170; *Franklin v. Crayton*, *Id.*, 243; *Miller v. Kershaw*, Bailey Eq., 479; *McCartney v. Ferguson*, 2 Hill Eq., 180; *Perry-clear v. Jacobs*, *Id.*, 504; *Riley Eq.*, 47; *Bank of U. S. v. Brown*, 2 Hill Eq. 558; *Riley*, 131; *Baskins v. Giles*, Rice Eq., 315; *Bank v. Mitchell*, *Id.*, 389; *Smith v. Patterson*, 1 Cheves Eq., 29. Want of schedule or failure to record it does not invalidate the settlement between the parties; only as to creditors and purchasers.—*Fripp v. Talbird*, 1 Hill Ch., 142. If property be sufficiently described in the articles of settlements, no schedule is necessary.—*Heriot v. Highham*, Bailey Eq., 222; *Rivers v. Heyward*, 7 Rich. Eq., 136. The description must necessarily be according to the character of the property and must give all the information that can reasonably be required.—*Rivers v. Heyward*, 7 Rich. Eq., 136. But it must correspond with the particularity intended by the Act.—*Allen v. Rumph*, 2 Hill Ch., 1.

Tenancy by
courtesy abol-
ished.

Civ. '02, §
2670.

Sec. 3429. Tenancy by courtesy is abolished in this State.

CHAPTER LXXXIII.

Guardians and Wards of Minors.

- ARTICLE 1. Guardians in General.
- ARTICLE 2. Public Guardians.
- ARTICLE 3. Testamentary Guardians.
- ARTICLE 4. Miscellaneous Provisions Relating to Minors.

ARTICLE I.

GUARDIANS IN GENERAL.

- Sec. 3430. Guardian to give bond to Judge of Probate; sureties of; how relieved.
- 3431. To render annual accounts; penalty.
- 3432. Proceedings against sureties.
- 3433. Measures to be taken on death of guardian for an accounting.

- Sec. 3434. Proceedings when guardian removes from State; citation; how published, &c.
- 3435. When, upon such proceedings, appointment to be revoked.
- 3436. When guardians must apply for partition.
- 3437. Commissions.
- 3438. Commission to deceased guardian's estate.

Section 3430. The Judge of Probate, on appointing a guardian to any estate, shall require him to enter into bond himself and his successors in a penalty of double the amount of such estate, and shall have the same power, as relieving the sureties of a guardian, which is given to him in the case of relieving the sureties of an administrator.

Guardian to give bond to Judge of Probate; sureties of, how relieved.

Civ. '02, § 2671.

Liability of sureties is to extent of penalty and not merely to value of property stated in petition.—Johnson v. Johnson, 2 Hill Ch., 277. And is limited to property owned by ward when the trust is assumed, but to property subsequently accruing.—Gray v. Brown, 1 Rich., 351. Where in giving sureties the guardianship is not revoked, but new bond is required, old sureties are released from future default.—Field v. Pelot, McM. Eq., 51 S. E., 269. But remains liable for all property then in the hands of the guardian.—Hall v. Hall, 45 S. C., 166; 22 S. E., 818. Refers to guardians of estates, not of persons.—Ex parte Davidge, 72 S. C., 51 S. E., 269.

To render annual accounts; penalty.

Civ. '02, § 2672.

Sec. 3431. All guardians of estates appointed by the Judge of Probate shall render to him an annual account of their actings and doings, as executors or administrators are

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required by law to do, and upon making default shall forfeit their commissions.

Proceedings
against sure-
ties.

Civ. '02, §
2673.

Sec. 3432. Any Judge of Probate shall have power to pronounce a decree against any guardian by him appointed upon final account, which shall authorize such proceedings against the sureties of such guardian as may be taken in the like cases against the sureties of an administrator.

No action at law on bond until such decree.—*Anderson v. Maddox*, 3 McC. 237; *Harrington v. Cole*, 3 McC., 509; *James v. Wallace*, 4 McC., 121; *Scherall v. Gibbes*, 4 McC., 547; *Pratt v. McJunkin*, 4 Rich., 5. As defense errors in such decree against principal cannot be proved unless set out in plea of surety.—*Davant v. Webb*, 2 Rich., 379. Sureties may reduce the amount of the decree by proper proof thereof.—*Pratt v. McJunkin*, 4 Rich., 5.

In case of
death of guardian,
to take
account.

Civ. '02, §
2674.

Sec. 3433. In case of the death of any guardian not represented by an executor or administrator, the Judge of Probate shall take the same measures for an account and decree against him, which shall have the like force and effect against his sureties and estate, as is provided by law respecting an administrator.

Judge of Probate
to cite
trustees, &c.,
in case of re-
moval from
State and ab-
sence for ten
months.

Civ. '02, §
2675.

Sec. 3434. In case of change of domicile by any trustee, guardian of minors, committee of lunatics and persons *non compos mentis*, to a place beyond the limits of this State, and absence therefrom for ten consecutive months then last past, and such change or absence is made to appear to the satisfaction of the Judge of Probate of the County wherein the appointment was made, it shall be the duty of such Judge of Probate to cite such trustee, guardian of minors, committee of lunatics and persons *non compos mentis*, to account in person before him, on a day named in the citation, which shall not be less than sixty days from the date thereof; and such citation shall be served upon such absent trustee, guardian of minors, committee of lunatics and persons *non compos mentis*, by publication forthwith, once a week for four weeks, in the newspaper in which the said Judge of Probate published his official advertisements, and a copy shall be mailed to such absent trustee, guardian of minors, committee of lunatics and persons *non compos mentis*, at his, her, or their place of residence, if it is known, or can with reasonable diligence be ascertained.

Sec. 3435. If, upon such citation, such absent trustee, guardian of minors, committee of lunatics and persons *non compos mentis*, fail to appear in person upon the day named

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and render a return of his administration up to date, or, appearing by attorney, fails to disprove a change of domicile and continuous absence for ten months next preceding the date of citation, the appointment shall be revoked and annulled.

When a p-
pointment of
guardianship
to be revoked.

Civ. '02, §
2676.

Sec. 3436. The guardian or guardians of children under age shall be required and directed to apply to the Court for an order of partition in all cases where any lands shall be given or descend to such children in coparcenary, joint-tenancy, or tenancy in common, (and no provision made by will or otherwise how such lands shall be divided,) in case any one of the said coparceners, joint-tenants, or tenants in common, shall neglect to apply for such partition for twelve months after becoming of age.

To apply for
partition,
where lands
descend in co-
parcenary, &c.

Civ. '02, §
2677.

Sec. 3437. All guardians having the care of the estates of minors, idiotic and insane persons, and persons *non compos mentis*, shall have the same commissions for their services as are allowed by law to executors, administrators, and other trustees.

Commissions.

Civ. '02, §
2678.

Booth v. Sineath, 2 Strob. Eq., 31; *ex parte* Commissioner, 5 Rich. Eq., 13.

Sec. 3438. When any guardian of an infant dies after receiving any of the funds of his or her ward, the estate of such deceased guardian shall be allowed commissions for paying over, as well as for receiving, the funds of such ward remaining in the hands of such guardian at the time of his or her death: *Provided*, The payment over is made to the ward, and not to another guardian.

Commissions,
to deceased
guardian.

Civ. '02, §
2679.

Such commissions not allowed before this Act.—Floyd v. Priester, 8 Rich. Eq., 248. Applied.—Adams v. Latham, 14 Rich. Eq., 304.

ARTICLE II.

PUBLIC GUARDIANS.

SEC.
3439. Judge of Probate to be public guardian; for whom and when; how appointed, &c.
3440. Application for appointment; by whom to be made; what to state.
3441. Order of appointment.

SEC.
3442. Powers and liabilities of guardian; compensation.
3443. Reports to Court of Common Pleas; when; what to state.
3444. Investments to be made under direction of Circuit Judge.

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3445. Discharge of guardian.

3446. Duty of Clerk of Court.

3447. Moneys, books, papers, &c.,
to be turned over to suc-
cessor; costs.

SAC.

3448. When new Counties are
formed the Probate Court
of the new County shall
have all estates of minors
turned over to it.

Judge of
Probate to be
appointed
guardian in
certain cases;
when and
how.

Civ. '02, §
2680.

Liability of
Judge of Pro-
bate and his
sureties.

Application
for appoint-
ment.

Civ. '02, §
2681.

Order of ap-
pointment.

Civ. '02, §
2682.

Section 3439. The Judge of Probate for each County in this State shall be required to act as the guardian of the estates of minors, idiots, and lunatics in their respective Counties where such minors, idiots, or lunatics have no general or testamentary guardian or guardians, and where it is made satisfactorily to appear to the Court of Common Pleas, or a Judge of said Court at Chambers, on a petition filed for that purpose, and on proof that the notice of the object of the said petition, together with a statement of the nature, condition, and value of the estate of said minor, idiot, or lunatic, has been inserted once a week for two weeks previously in some public newspaper published in said County, or, if there be none, in some adjoining County, and also at the door of the Court House, that no fit, competent, and responsible person can be found who is willing to assume such guardianship; and the Judge of Probate appointed as such guardian and his sureties shall be held responsible upon his official bond for all estates of such minors, idiots, and lunatics received by him.

This does not create a separate office, but merely imposes new duties on the Probate Judge.—State v. Green, 52 S. C., 520; 30 S. E., 683.

Sec. 3440. The application for the appointment of the Judge of Probate as such guardian shall be made by the father, mother, husband, brother, executor, administrator, or other person interested in said minor, idiot, or lunatic, and shall state the name and age of the minor, idiot, or lunatic, the character and value of the estates of such minor, idiot, or lunatic, and that such minor, idiot, or lunatic has no general or testamentary guardian, and that no fit, competent, or responsible person can be found who is willing to assume said trust, and shall be subscribed and sworn to by the party making the application.

Sec. 3441. The Court or Judge hearing such application, if satisfied that the interest of the minor, idiot or lunatic would be best subserved by such appointment, shall endorse on such application an order appointing the Judge of Pro-

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bate such guardian and authorizing him to receive the estates of such minor, idiot or lunatic, and to sign and seal all necessary and proper releases and discharges relating thereto.

Sec. 3442. The Judge of Probate so appointed shall have all the powers and be subject to all the liabilities of guardians appointed by the Court of Probate, and shall be entitled to like compensation.

Powers and liabilities of guardian; compensation.

Civ. '02, § 2683.

Sec. 3443. The Judge of Probate for each County in this State shall annually, at the first term of the Court of Common Pleas in and for his County, and oftener if required by the presiding Judge of the Circuit, submit in open Court a report, under oath, of all his actings and doings as such public guardian, which report, if satisfactory, shall be approved by the presiding Judge by endorsement thereon, and shall be filed in the office of the Clerk of Court of Common Pleas of said County.

Report of investments, &c.

Civ. '02, § 2684.

The annual report of the Judge of Probate, as public guardian, required by this Section, shall state the name of each minor, idiot, or lunatic, the date when appointed guardian of such minor, idiot, or lunatic; the value of the estates of such minor, idiot, or lunatic; of what the same consists; the amount and character of the investments, if any, and when and by whom made, and what amount, if any, remains uninvested, and the amounts received and paid out since last report, properly vouched, and such recommendations, as he may deem most to the advantage of his wards respectively.

Id., § 6.

Sec. 3444. All investments made by the Judge of Probate as public guardian shall be made under the direction and with the approval of the presiding Judge, or the Judge of the Circuit in which said Judge of Probate resides, upon petition and proof that said proposed investment is a safe and proper one; that the public guardian shall have due notice of the petition and of the time and place of taking testimony thereunder, with the right to cross-examine petitioners' witnesses, and to offer testimony; and the said petition, testimony, or decree made thereupon by said Court or Judge shall be duly recorded as provided in Section 446.

Investments to be approved.

Civ. '02, § 2685.

Record.

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Discharge of
guardian.Civ. '02, §
2686.

Sec. 3445. All orders of discharge of the Judge of Probate, as public guardian, shall be granted by the presiding Judge or the Judge of the Circuit in which said Judge of Probate resides, it being made satisfactorily to appear that a full and fair accounting has been had with the parties entitled to the estates received by him as such guardian.

Duty of
Clerk of
Court.Civ. '02, §
2687.

Sec. 3446. The Clerk of the Court of Common Pleas shall keep a separate journal of all proceedings and orders relating to matters of the Judge of Probate as public guardian, and shall keep all books, papers, and records relating to the same in a separate apartment in his office, neatly put up in packages and endorsed, and the said Clerk shall be entitled to charge and receive for the services so rendered the same costs and fees which would be charged for similar services rendered in the Court of Probate.

In case of
retirement or
death of Judge
of Probate all
moneys, &c.,
to be turned
over to suc-
cessor.Civ. '02, §
2688.

Sec. 3447. The Judge of Probate retiring from office, or in case of the death of the Judge of Probate, his executor or administrator, shall turn over all moneys, bonds, mortgages, notes, and other choses in action, and all books, papers, and other writings in his hands, custody, and control, as such public guardian, to his successor in office, who thereupon shall assume all the duties of such public guardian, and be invested with all the powers and be subject to all the liabilities of such guardian.

The costs for all proceedings under this Article shall be the same, and none other, than for similar proceedings in the Court of probate.

When new
Counties are
formed the
Probate
Court of new
County shall
have all es-
tates of mi-
nors turned
over to it.1906, XXV,
9.

Sec. 3448. In all cases where a new County has been formed or created out of portions of an old County or Counties, the Probate Judge for said new County shall act as guardian of the estates of minors, idiots and lunatics formerly residing in that portion of the said old County or Counties formed and created into the said new County; or where the said minors, idiots and lunatics now reside in said new County, and the Probate Judge of the said old County or Counties, is acting as guardian of the said minors, idiots or lunatics, he shall, upon application of any one in their behalf, turn over and deliver to the Probate Judge of the said new County the estates of said minors, idiots or lunatics, and the Probate Judge of the said new County shall receive the same as guardian, and be, and hereby is, constituted

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guardian of said estates in lieu and in place of the Probate Judge of the old County or Counties, and his official bond shall be liable as such, as now provided by law in such cases. In case the Probate Judge of the said old County or Counties refuses or fails, within ten days after being requested so to do, to turn over and deliver the said estates of said minors, idiots or lunatics formerly in his County out formed into a new County, or of such who have removed into said new County, the party making said application may apply to any Circuit Judge in this State, at Chambers, upon four days' notice, for an order requiring said Probate Judge to comply with the provisions of this Section; and the said Probate Judge so failing or refusing to turn over and deliver said estates shall be liable to pay all cost of the proceeding, including reasonable counsel fees, to be fixed by the Court in said order. That no commissions shall be charged or collected by either Probate Judge for delivering the said estates or for removing the same.

ARTICLE III.

TESTAMENTARY GUARDIANS.

C.
3449. Custody of minor children may be disposed of by father or mother; when; how.
3450. Such disposition valid.
3451. May maintain action for recovery of children, &c.

Suc.
3452. Custodians to take charge of property conveyed or devised for use of ward; until when; general powers, &c.
3453. To make annual returns to Judge of Probate.

Section 3449. The father of any child, or children, under the age of twenty-one years, and not married, if the mother be dead, or the mother of any such child, or children, the father being dead, whether such father or mother be under the age of twenty-one years, or of full age, may, by his or her deed, executed and recorded according to law, or by his or her last will and testament, made and probated according to law, dispose of the custody and tuition of such child, or children, for and during such time as he, she, or they, respectively, remain under the age of twenty-one years, to any person, or persons, in possession or remainder. But no

How custody of minors may be disposed of.

Civ. '02, § 2680. 1910, XXVI, 705.

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such deed shall be valid unless signed by both father and mother, if both be living: *Provided*, That nothing herein shall be construed to abrogate, lessen or interfere with the right and duty of a Court of competent jurisdiction at any time, as heretofore, to transfer and assign the custody of a child for its best interest.

Father's right to custody of person.—*Ex parte Davidge*, 72 S. C., 16; S. E., 269; *Ex parte Reynolds*, 73 S. C., 296; 53 S. E., 490; *Ex parte Tillman*, 84 S. C., 552; 66 S. E., 1049. See note Habeas Corpus, Criminal Code.

Such disposition valid.

Civ. '02, § 2690.

Sec. 3450. Such disposition of the custody of such child or children shall be good and effectual against all and every person or persons claiming the custody of such child or children, as guardian in socage or otherwise.

May maintain action for recovery of children, &c.

Civ. '02, § 2691.

Sec. 3451. Any person or persons, to whom the custody of any child or children has been or shall be disposed or devised, as provided by the two preceding Sections of this Chapter, shall and may maintain an action against any person or persons who shall wrongfully take away or detain such child or children, for the recovery of such child or children, and shall and may recover damages for the same in the said action, for the use and benefit of such child or children.

Custodian to have the rights of a guardian.

Civ. '02, § 2692.

Sec. 3452. Any person or persons to whom the custody of any child or children has been or shall be disposed or devised as provided by Sections 3449 and 3450, may take into his, her or their possession, to and for the use, support and education of such child or children, all property, real and personal, which by such deed or will shall have been conveyed, or devised, or bequeathed to such child or children, till their respective age of twenty-one years, or for such lesser time as shall be fixed by such deed or will aforesaid; and may do all acts in relation thereto which a guardian appointed according to law might do.

Returns to be made to the Probate Judge.

Civ. '02, § 2693.

Sec. 3453. The custodian so appointed by deed or will shall make a return to the Judge of Probate of all the property which shall come into his or her possession, and account annually for the rents, profits and income thereof, and be liable therefor, in the same manner and to the same extent as guardians appointed by law.

ARTICLE IV.

MISCELLANEOUS PROVISIONS RELATING TO MINORS.

Sec.	Sec.
3454. Employers of minors to pay parents or guardians: when.	3456. Unlawful to issue process on such contracts; confession of judgment on, void.
3455. Certain contracts of students of colleges, &c.	3457. Judgments on, to be vacated.
	3458. Not applicable to apothecaries as to sale of drugs, &c.

Section 3454. If any person shall hire or employ any minor, or person under the age of twenty-one years, without the knowledge and consent of the parents or guardian of such minor, such person shall pay to said parents or guardian the full value of the labor of said minor from and after notice from the parents or guardian that payment of such service shall be made to him or them, as the case may be: *provided*, This Section shall not apply to cases where the parents or guardian fails or refuses to furnish the minor a home and support, in which cases the minor shall have the right to make contracts in regard to his own labor and enforce same in his own name and for his own benefit, and his employer shall be responsible to the minor only in such cases.

Employers of minors liable to parents or guardians.

Civ. '02, § 2694. 1908, XXV, 1029.

affirmance of deed made by infant remainderman.—Steele v. Poe, 79 S. C., 407; 60 S. E., 951.

Sec. 3455. Any contract or agreement whatsoever, expressed or implied, by any undergraduate of any of the colleges or institutions of education in this State, who shall be a minor, or any shop-keeper, upon the sale of any wines, ardent spirits, goods, wares, or merchandise, or any article of trade, or with any keeper of a hotel, tavern, house of entertainment, or livery stable, shall be held and deemed utterly null and void, insomuch that no confirmation of the same by such student, after he may have attained the age of twenty-one years, shall render such contract or agreement of legal effect.

Certain contracts by certain minors null and void.

Civ. '02, § 2695.

Sec. 3456. It shall not be lawful to issue any process, writ or from a Magistrate or from any Court of record in this State, against any such student, upon any such contract or agreement, as aforesaid, at any time; nor shall any confession

Unlawful to issue process, &c., against them.

Civ. '02, § 2696.

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sion of judgment upon the same be lawful or binding, or be allowed to be entered up.

Unlawful
judgments to
be vacated.

Civ. '02, §
2697.

Sec. 3457. In case any judgment shall be confessed, or obtained contrary to the prohibition hereinbefore expressed, the same shall be ordered to be vacated and annulled by any Judge of the Common Pleas, at Chambers or in open Court, upon any information that may satisfy him that the said judgment is in contravention of the intent of the two preceding Sections.

Not applica-
ble to apothecaries as to
sale of medi-
cines.

Civ. '02, §
2698.

Sec. 3458. The provisions of the three preceding Sections of this Chapter shall not apply to any apothecary, so far as his dealings may concern the sale of his drugs and medicines.

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CHAPTER LXXXIV.

Change of Names.

Sec.

3459. Application for change of name to be made by petition in open Court; what to be set forth.

3460. Judge to exercise discretion in granting or refusing.

3461. Duty of Clerk of Court when petition is granted.

Sec.

3462. To sue and be sued by new name; pending actions.

3463. Effect on old obligations, as to heirs, executors, &c.

3464. Petition for leave to adopt children; proceedings therein.

Section 3459. Any person who may be desirous of changing his or her name may exhibit his or her petition, in writing, to any of the Judges of the Circuit Court of this State, in open Court, setting forth in said petition the reasons why he or she is desirous of changing his or her name, together with his or her age, place of residence and nativity, and the name by which he or she wishes thereafter to be called and known.

Persons desiring to change their names to apply in open Court.

Civ. '02, § 2699.

Effect of change of name.—Brayton v. Beall, 73 S. C., 308; 53 S. E., 641.

Sec. 3460. Upon said petition, and the reasons therein contained, it shall be the duty of the Judge to determine, and grant or refuse the prayer thereof, as to him shall appear proper, having a due regard to the true interest of the petitioner.

Court to exercise discretion.

Civ. '02, § 2700.

Sec. 3461. Whenever the prayer of such petition shall be granted, it shall be the duty of the Clerk of said Court to enter the same on the minutes of the Court, and to file the original petition, with the *fiat* of the Judge, among the papers of his office; and to deliver to the petitioner a true copy of said petition, together with a copy of the Judge's order thereon, properly certified, and under the seal of said Court; for which the said Clerk shall be entitled to and receive from the petitioner the sum of five dollars and no more.

Duty of Clerk; proceedings to be recorded, when name changes.

Civ. '02, § 2701.

Sec. 3462. In all cases the persons so changing his or her name may sue and be sued, plead and be impleaded, by his or her new name, and no other. In all cases where an action

To sue, &c., by new name; old suits.

Civ. '02, § 2702.

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or actions shall be pending at the time of such alteration of names, the same shall not abate by the party's name being changed, but the record on motion shall be amended by expunging the old name, and inserting the new name of the party.

Effect on old obligations.

Civ. '02, § 2708.

Sec. 3463. In all cases, where the party changing his or her name is bound by obligation or otherwise, the effect of which obligation would extend to and impose any obligations on the heirs, executors, or administrators, of the person so having changed his name, the said heirs shall be and remain bound, to all intents and purposes, in the same manner and to the same extent as if the party had not changed his or her name.

Adoption of children, change of name, etc., how affected.

Civ. '02, § 2704. 1907, XXV, 581.

Sec. 3464. Any person or persons who may desire to adopt any child or children in this State, and confer upon such child or children so adopted the right to inherit as the lawful child or children of the said person or persons, whether it be desired to change the name of such child or children or not, shall be authorized to file his or their petition in the Court of Common Pleas for the County in which he, she or they may reside; and, thereupon, the Court, upon an examination into the merits of the said petition, either in open Court or upon reference, shall be authorized to grant the prayer thereof, upon such terms as may to the Court seem proper; and, thereupon, the name of the said child or children shall be changed, if so provided in the decree of said Court, and such child or children shall be entitled to inherit from the said petitioner or petitioners as his, her or their lawful child or children: *Provided*, That, before any hearing shall be had on said petition, the child or children so sought to be adopted, and whose name or names are sought to be changed, shall be served with a copy of said petition, and guardian *ad litem* for such child or children shall be appointed as in other civil actions: *Provided*, *further*, That whenever the child or children, whose adoption may be desired by any person or persons, in accordance with the foregoing provisions of this Section, is or are an inmate or inmates of any orphan house within this State, then the petition for the adoption of such child or children hereinbefore required may be filed, and all other proceedings in reference thereto had in the Court of Common Pleas for

When child an inmate of orphan house.

the County in which such orphan house is situated, with like force and effect in every respect as if such petition had been filed and such proceedings had in the Court of Common Pleas for the County in which such petitioner or petitioners may reside: *Provided*, That no person in this State shall adopt an illegitimate child unless the father and mother of said child, if both were unmarried at the time of its birth, could have lawfully contracted matrimony under the Constitution and laws of this State, nor when the person seeking to adopt an illegitimate child has, at the time of filing the petition, either a lawful wife or child, unless the wife is the mother of such illegitimate child, and unless the wife file her written consent to said adoption in the office of Clerk of Court of County wherein said petition is filed: *Provided*, *Further*, That no person who adopts any illegitimate child shall give to such child, by deed, will, or otherwise, any greater portion of his estate than is now allowed by law, unless such person has no lawful wife or issue living at the time of his death; nor shall such illegitimate child inherit, in case of intestacy, from the adopted parent any greater portion of his estate than may be given to such child by deed or will, when such intestate leaves a widow or lawful issue surviving him.

Provisions as
to adoption of
illegitimate
children.

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CHAPTER LXXXV.

Masters, Apprentices and Laborers.

ARTICLE 1. Master and Apprentice.

ARTICLE 2. Protection of Laborers.

ARTICLE I.

MASTER AND APPRENTICE.

Sec.

3465. Persons may take and teach apprentices.

3466. Infant apprentices, how bound: duty of Magistrates; who to approve.

3467. Assignment of indentures to be certified by Magistrate; rights and liabilities of assignees.

3468. Executor or administrator of master may retain apprentice, or may assign indenture; proviso.

3469. Indenture valid to executor, &c., retaining, or to assign.

Sec.

3470. Clerk of Board of Commissioners of Charleston Orphan House vested with powers of Magistrates under this Article; proviso.

3471. Indentures of inmates of Charleston Orphan House under authority of Board valid without certificate of Magistrates, &c.

3472. Apprentices, though under age, bound to serve for the stipulated period.

3473. Males not bound to serve after 21, nor females after 18.

3474. Two Magistrates have jurisdiction in matters of complaint.

Persons may take and teach one or more apprentices.

Civ. '02, § 2705.

Section 3465. It shall and may be lawful to and for any person or persons within this State to take one or more apprentice or apprentices, indented according to the directions of this Chapter, and to teach such apprentice or apprentices the lawful business, art, trade, and mystery specified in the indenture or indentures of such apprentice or apprentices, during the time therein limited, and to retain and keep in his or their service such apprentice or apprentices until the expiration of the said time, or until such apprentice or apprentices shall be lawfully discharged.

Sec. 3466. It shall be the duty of any Magistrate to whom application is made by a person desiring to become

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Infant apprentices, how bound; when indentures void.

Civ. '02, § 2706.

the master or mistress of any infant to be bound to service by indenture according to law, to certify under his hand and seal upon such indenture, the presence and approbation of the father, mother, or guardian of such infant, at the time it was executed; and in case such infant so to be apprenticed shall have neither father, mother, nor guardian, to approve such indenture, then the presence and approbation of the grandfather, grandmother, or brother, sister, uncle, or aunt, of mature age, or of his own approval of such indenture, to be certified thereon, each in the order herein established and enumerated, and in like manner shall certify the approval of such persons as above designated, which indenture or indentures, so executed and certified as aforesaid, shall be good and effectual, to all intents and purposes, as if such apprentice had been of full age, and by indenture of covenant had bound him or herself; or otherwise shall be void and of none effect.

Welborn v. Little, 1 N. & McC., 263; Austin v. McClany, 5 Strob., 104; Anderson v. Young, 54 S. C., 388; 32 S. E., 448.

Assignment of indentures to be certified by Magistrates.

Civ. '02, § 2707.

Sec. 3467. In the same manner, any Magistrate shall certify the assent of the same parties, in like order, to the assignment and transfer of such indenture for sufficient cause, by the master or mistress,, to any person exercising the employment specified therein, which said indenture so assigned shall be valid and effectual to the assignee, as to the time remaining unexpired, as if the said apprentice had been originally indented to such assignee; and the said assignee, on accepting such assignment, shall be equally bound to the said apprentice, according to the tenor of the said indenture, as the original master or mistress was.

Executor or administrator may retain, &c., may assign indenture.

Civ. '02, § 2708.

Sec. 3468. The time of service of any apprentices who are, or shall be, indented to serve their masters, mistresses, their executors, or assigns, in this State, remaining unexpired at the time of the death of any of the masters or mistresses of such apprentices, and not before assigned in manner aforesaid, shall be deemed and taken as assets in the hands of the executors or administrators of any such masters or mistresses, and it shall and may be lawful to and for such executors or administrators to retain any such apprentices in their own service during the remainder of such time: *Provided*, The executor or administrator so

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retaining such apprentice does, at the time of such retainer, carry on and exercise (by himself or some other person in his employ), within the same County where the testator lived, the same employment, calling, art, mystery, or trade, to which the said apprentice was bound by his indenture; or otherwise, if the executors or administrators of such deceased person think fit, it shall be lawful for them to assign and transfer such indenture and the time therein unexpired, with the consent of the same persons, in like order, and in the same manner, certified by a Magistrate, to any other person carrying on and exercising within this State the same employment, calling, and mystery, or trade specified in the said indenture.

Indentures
valid to exe-
cutor retain-
ing, or to as-
signee.

Civ. '02, §
2709.

Sec. 3469. Such indenture, so retained or assigned, shall be valid and effectual to the executor or administrator so retaining, and to such assignee as to the time remaining unexpired, as if the said apprentice had been originally indented to such executor, administrator, or assignee; and the said executor, administrator, and assignee, on retaining such apprentice, or accepting such assignment, shall be equally bound to the said apprentice, according to the tenor of the indenture, as the original master or mistress was.

Board of
Commission-
ers of the
Charleston
Orphan
House.

Civ. '02, §
2710.

Sec. 3470. The Clerk of the Board of Commissioners of the Charleston Orphan House for the time being be, and he hereby is, vested with all the powers conferred upon Magistrates by the three Sections of these Statutes immediately preceding in relation to the execution, certifying, transfer and assignment of indentures of minors when received into or bound out from the Charleston Orphan House; and all indentures or renewals of indentures heretofore made or hereafter to be made before the Clerk of the said Board of Commissioners in relation to any minor received into or bound out from the Charleston Orphan House shall be, to all intents, as valid, effectual and binding as if the same had been made before a Magistrate: *Provided*, That the said Clerk of the Board of Commissioners aforesaid shall have been regularly appointed a Notary Public by the Governor of the State and duly commissioned as such.

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Sec. 3471. Any indenture of apprenticeship or any assignment of any indenture of apprenticeship made or hereafter to be made under the authority of the Board of Commissioners of the Charleston Orphan House of any child inmate of said institution shall be effectual and valid, to all intents and purposes, as if the same were made by the parent of such child; and such indentures and assignment of indentures do not and shall not require the certificate of any Magistrate.

Indentures of apprenticeship by Commissioners of the Charleston Orphan House and assignments thereof valid without Magistrate's certificate.

Civ. '02, § 2711.

Sec. 3472. Any person that shall be bound by indenture to serve as an apprentice within this State, in any lawful employment, calling, art, mystery, or trade, although such apprentice shall have been within the age of twenty-one years at the time of making such indenture, shall be bound to serve for the number of years in such indenture contained, as fully and effectually, to every intent, as if the said apprentice had been of full age at the time of making such indenture, and shall be bound, accepted, and taken as an apprentice accordingly: *Provided, always,* That such apprentice shall be indented in the manner and according to the directions of this Chapter.

Apprentices to serve period mentioned.

Civ. '02, § 2712.

Sec. 3473. Nothing in this Chapter contained shall extend to oblige any male apprentice to serve after he shall have attained the age of one and twenty years, or a female after she shall have attained the age of eighteen years.

Males not to serve after 21; females after 18.

Civ. '02, § 2713.

Sec. 3474. On complaint made by an apprentice, charging his or her master or mistress with misuse, or by the master or mistress against such apprentice, before any two Magistrates of the County, setting forth the cause of such complaint, it shall be the duty of such Magistrates to make such order between the parties as the equity and justice of the case may require, subject, nevertheless, to the right of either party to appeal from such order to the Court of Common Pleas for the County at the next ensuing term.

Two Magistrates to have jurisdiction in complaints.

Civ. '02, § 2714.

This Section is not unconstitutional in that it denies right of trial by jury.—*Welcher v. Commissioners*, 2 McC., 23. Appeal lies, it seems from the judgment of the Court of Common Pleas on such appeal.—*Carmand v. Wall*, 1 All., 209.

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ARTICLE II.

PROTECTION OF LABORERS.

SEC.

3475. Contracts between owners of land and laborers; how to be witnessed; when read over and explained and what set forth.

3476. Division of crops by disinterested person or Magistrate; proceedings; fees, &c.

SEC.

3477. Laborers to be paid in lawful money unless otherwise stipulated.

3478. Discharged employee's wages when due.

3479. Certificate for wages duly regulated.

3480. Penalty for violation of Section 3479.

Contracts to be read to parties and witnessed.

Civ. '02, § 2715.

Section 3475. All contracts made between owners of land and their agents, administrators, or executors, and laborers, shall be witnessed by one or more disinterested persons, and, at the request of either party, be duly executed before a Magistrate whose duty it shall be to read and explain the same to the parties. Such contracts shall clearly set forth the conditions upon which the laborer or laborers engaged to work, embracing the length of time, the amount of money to be paid, and when; if it be on shares of crops, what portion of the crops or crops.

Does not prevent common law contract.—*Huff v. Watkins*, 18 S. C., 512; *State v. Williams*, 32 S. C., 123; 10 S. E., 876.

The landlord is entitled to the possessions of crops raised on shares.—*Lowless v. Gilliam*, 70 S. C., 391; 50 S. E., 9. What is a sufficient contract.—*State v. Leak*, 62 S. C., 405; 40 S. E., 774; *State v. Lanier*, 79 S. C., 103; 60 S. E., 225; *Huff v. Watkin*, 79 S. C., 103.

Crops to be divided by disinterested persons.

Civ. '02, § 2716.

Sec. 3476. Whenever labor is performed under contract on shares of crop or crops, such crop or crops shall be gathered and divided off before it is removed from the place where it was planted, harvested, or gathered. Such division to be made by a disinterested person, when desired by either party to the contract. And such disinterested party shall be chosen by and with the consent of the contracting parties; whenever the parties fail to agree upon any disinterested party, or, if complaint is made that the division has been unfairly made, within ten days after such division it shall be the duty of the Magistrate residing nearest the place where such crop or crops are planted, harvested, or gathered, to cause, under his immediate supervision, such equitable division as may be stipulated in the contract. Such disinterested party or Magistrate shall receive reason-

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able compensation for such service, to be paid by both of the contracting parties, according to their several interests, except in cases of an attempt to wilfully defraud the other by one of the contracting parties; and then such compensation shall ~~be~~ paid by the parties so attempting to defraud the other. When such division has been made, each party shall be free to dispose of their several portions as to him or her or them may see fitting: *Provided*, That if either party be in debt to the other for any obligation incurred under contract, the amount of said indebtedness may be then and there settled and paid by such portion of the share or shares of the party so indebted as may be agreed upon by the parties themselves, or set apart by the Magistrate, or any party chosen to divide said crop or crops.

Laborers not entitled to such lien, unless contract is in writing.—*Hair v. Blease*, 8 S. C., 63. Laborer cannot bind share by lien for advances.—*Carpenter v. Strickland*, 20 S. C., 1; *Richey v. DuPre*, 20 S. C., 6. For provisions as to laborer's lien on crop, see Sec. 3058, *post*.

Sec. 3477. Unless otherwise provided by special contract, all persons who employ laborers upon plantations or elsewhere, by the day, week, month or year shall pay such laborers or employes in lawful money. Laborers to be paid in lawful money, unless otherwise stipulated.

Sec. 3478. When any corporation carrying on any business in this State in which laborers are employed, whose wages, under the business rules or custom of such corporation, are paid monthly on a fixed day beyond the end of the month in which the labor is performed, shall discharge any such laborer, the wages which have been earned by such discharged laborer shall become immediately due and payable. Civ. '02, § 2717. Discharged laborers to be paid up to time of discharge by corporations.

Sec. 3479. It shall not be lawful for any corporation, person or firm in this State to issue, pay out or circulate for payment of the wages of labor, any order, check, memorandum, token or evidence of indebtedness, payable in whole or in part otherwise than in lawful money of the United States, unless the same is negotiable and redeemable at its face value, without discount, in cash or in goods, wares or merchandise or supplies, at the option of the holder, at the store or other place of business of such firm, person or corporation, or at the store of any other person on whom such paper may be drawn, where goods, wares or Certificates for wages due. Negotiable; redemption of.

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merchandise are kept for sale, sold or exchanged, and the person who, or corporation, firm or company which may issue any such order, check, memorandum, token or other evidence of indebtedness, shall, upon presentation and demand, within thirty days from date of delivery thereof, redeem the same in goods, wares, merchandise or supplies at the current cash market price for like goods, wares, merchandise or supplies, or in lawful money of the United States, as may be demanded by the holder of any such order, memorandum, token or other evidence of indebtedness:

Provided, That if said corporation, person or firm engaged as specified in this Section have a regular pay day once in

Special provision as to employers having regular pay days.

every thirty days, then said corporation, person or firm shall not be required to redeem such token or evidence of indebtedness in cash until the first pay day after the same becomes payable, as herein provided, and such token or evidence of indebtedness shall be presented for payment in cash only on such pay days: *Provided*, That the provisions of this Section shall not apply to agricultural contracts or advances made for agricultural purposes.

Agricultural contracts excepted.

Civ. '02, § 2720. 1904, XXIV, 441.

Sec. 3480. Any officer or agent of any corporation or any person, firm or company engaged in the business of manufacturing or mining in this State, who by themselves or agent shall issue or circulate in payment for wages of labor any order, check, memorandum, token or evidence of indebtedness, payable in whole or in part otherwise than in lawful money of the United States, without being negotiable and payable at the option of the holder in goods, wares, merchandise, supplies or lawful money of the United States, as required by Section 3479 or who shall fail to redeem the same when presented for payment within thirty days from date of delivery thereof, by the said company or its agent, at his or their office or place of business, in lawful money of the United States, or who shall compel or attempt to coerce any employee of any such corporation, shall forfeit to the employee or legal owner and holder of such order, check, memorandum, token or evidence of indebtedness fifty dollars to be recovered in any Court of competent jurisdiction:

Penalty for violation of § 3480.

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Provided, That in establishments for manufacturing lumber or brick, such checks shall not be redeemable in cash except on regular pay days.

Checks issued as credits, redeemable in merchandise.—Johnson v. Spartan Mills, 68 S. C., 339; 47 S. E., 695. Proviso not repealed by amendment to Sec. 3480.—Pearson v. Mills Mfg. Co., 82 S. C., 506; 64 S. E., 407.

Amendment does not repeal proviso of Sec. 3479.—Pearson v. Mills Mfg. Co., 82 S. C., 506; 64 S. E., 407.

PART III.

OF COURTS AND JUDICIAL OFFICERS, AND PROCEEDINGS IN CIVIL CASES.

TITLE I.

OF COURTS AND JUDICIAL OFFICERS.

CHAPTER LXXXVI. *The Supreme Court and Its Officers.*

CHAPTER LXXXVII. *Circuit Courts and Judges.*

CHAPTER LXXXVIII. *County Courts.*

CHAPTER LXXXIX. *The City Court of Charleston.*

CHAPTER XC. *Court for the Arbitration of Mercantile Disputes in the City of Charleston.*

CHAPTER XCI. *Attorneys, Solicitors and Counselors.*

CHAPTER XCII. *Special Provisions Respecting Courts and the Administration of Justice and Certain Rights and Remedies.*

CHAPTER LXXXVI.

Of the Supreme Court and Its Officers.

SEC.

3481. Justices; quorum; adjournments.

3482. When Justices shall qualify, &c.

3483. Records.

3484. To appoint Messenger, Librarian and other subordinates.

3485. Clerk of, appointment, fees and salary

3486. Reporter; appointment, duties, salary.

SEC.

3487. Salaries of Justices.

3488. Vacancies in, how filled.

3489. When Justices are disqualified, &c.

3490. Roster and assignment of Circuit Judges.

3491. Sheriffs to serve and execute process.

3492. Distribution of reports.

3493. Costs in action brought in original jurisdiction of Supreme Court.

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Supreme Court, members of, term of office, &c.

Civ. '02, § 2721.

Section 3481. The Supreme Court shall consist of a Chief Justice and three Associate Justices, who shall be elected by a joint *viva voce* vote of the General Assembly for the term of eight years, and shall continue in office until their successors are elected and qualified, and shall be so classified that one of them shall go out of office every two years. Any three of the Justices shall constitute a quorum. It shall be the duty of all the Justices to be present, and the Chief Justice shall preside. In the absence of the Chief Justice the Justice oldest in commission shall preside.

If at any stated term of the Court a quorum thereof shall not attend on the first day of the term, the Justice or Justices attending shall have the authority to adjourn the Court from day to day for ten days after the time appointed for the commencement of the said term unless a quorum shall sooner attend; or unless a sufficient number of men learned in the law commissioned by the Governor as provided in Section 3489 to make a quorum shall sooner attend; and the business of the Court shall not in such case be continued over the next stated term thereof until the expiration of said ten days.

Court may adjourn if a quorum is not present.

A Judge elected to fill vacancy holds only for the unexpired term.—Simpson v. Willard, 14 S. C., 191.

Sec. 3482. The Justices of the Supreme Court shall qualify within twelve months after the date of their election by taking the Constitutional oath or the office shall be declared vacant by the Governor. The oath shall be administered by a Justice of said Court or by a Circuit Judge.

Qualification of.

Civ. '02, § 2722.

Sec. 3483. The Supreme Court shall be a Court of record, and the records thereof shall at all times be subject to the inspection of the citizens of the State or other persons interested. The records shall be kept in the manner prescribed by the Justices of the Court.

A Court of Record.

Civ. '02, § 2723.

Sec. 3484. The Supreme Court shall appoint a Messenger of the Court, a Librarian, who shall be in charge of the library of the Court, and an Attendant, to hold for the term of four years, and subject to removal by the Court, and shall prescribe the duties of the officers so appointed. The Messenger shall receive an annual salary of two hundred dollars and the Librarian a salary of eight hundred dollars.

Messenger and Librarian. How appointed.

Civ. '02, § 2724.

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per annum. The Attendant shall receive a salary of two hundred dollars.

Clerk of.
Fees and sal-
ary of Clerk.

Civ. '02. §
2725.

Sec. 3485. The Supreme Court shall also appoint a Clerk who shall hold his office for four years, and who shall have the custody and keeping of its records, and shall furnish certified copies thereof to persons desiring the same, upon the payment of the fees prescribed by law. And he shall receive a fee of fifty cents for each remittitur in civil cases, to be taxed as their costs and disbursements, and a similar fee for each certificate. His salary shall be eight hundred dollars per annum, to be paid out of the State Treasury, on the warrant of the Comptroller-General.

Reporter to
be appointed;
duties and
salary.

Civ. '02. §
2726.

Sec. 3486. The Supreme Court shall appoint a Reporter for the term of four years, who shall take the constitutional oath before any one of the Justices or the Clerk of the Supreme Court. It shall be the duty of the Justices of the Supreme Court to deliver to the Reporter full notes of all decisions made by them which they shall deem of sufficient importance to publish. The Reporter shall faithfully prepare all such decisions for publication; and whenever, in the opinion of the Court, it shall be necessary for a proper understanding of the decision, he shall report therewith a brief statement of the case and arguments. It shall be his duty, in addition to the report of the cases where he may be instructed to prepare under the order of the Court, to append the titles of all other cases decided by the Court during the period covered by each volume prepared by him, stating in a short note the principle or principles decided in each case, and also adding a list of all cases cited by the Court in its decisions, as well as what cases previously decided have been overruled, modified or confined, and what Statutes have been construed by said Court during said period. He shall also append to each volume an alphabetical list of all cases reported, and an alphabetical list of all cases cited, criticised, affirmed, overruled or modified, and a full and complete index to the contents of the volume. The Reporter shall be appointed at the session of the General Assembly in 1901, and every two years thereafter, a committee of three, to be composed of one member of the Senate, to be appointed by the President of the Senate, and two members of the House, to be appointed by the Speaker of the House, to serve for

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no years, whose duty it shall be to procure and contract for a period of two years with a competent publisher for the publication and disposition, according to the contract, of the advance sheets of decided cases, and of the Supreme Court Reports in volumes of not less than six hundred pages; the contract to fully stipulate style of binding, type, paper, number of volumes of each edition, and the method and manner of disposition of the same; which committee shall report to both Houses at each session. And the reporter shall carefully, properly and promptly prepare and deliver to the publisher the copy or manuscript for the advanced sheets of all decided cases, as the decisions are filed, and for each volume of the Reports as often as the decisions of said Court shall be sufficient to constitute a volume of not less than six hundred pages; he shall receive salary of thirteen hundred dollars per annum, payable on the warrant of the Comptroller-General.

Sec. 3487. The Chief Justice hereafter to be elected shall receive an annual salary of three thousand dollars, and the Associate Justices hereafter to be elected shall each receive an annual salary of three thousand dollars; they shall not be allowed any fees or perquisites of office, nor shall they hold any other office of trust or profit under the State, the United States or any other power.

Salaries of Justices.	
Civ. '02, § 2727.	1905, XXIV, 845.

Sec. 3488. All vacancies in the Supreme Court shall be filled by elections as herein prescribed: *Provided*, That if the unexpired term does not exceed one year such vacancy may be filled by Executive appointment, but when a vacancy is so filled by either appointment or election the incumbent shall hold only for the unexpired term of his predecessor.

Vacancies, how filled.	
Civ. '02, § 2728.	

Sec. 3489. No Justice shall preside in any case, or at the hearing thereof, in which he may be interested, or when either of the parties shall be connected with him by affinity or consanguinity within the sixth degree, or in which he has been counsel, or has presided in any inferior court. In case all or any of the Justices of the Supreme Court shall be thus disqualified, or be otherwise prevented from presiding in any cause or causes, the Court, or the Justices thereof, shall certify the same to the Governor of the State, and he shall immediately commission specially requisite number of men learned in the law for the trial

Justices disqualified in certain cases.	
Civ. '02, § 2729.	

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In such cases places to be temporarily filled. How.

and determination thereof. When such appointments are made by the Governor, the actual traveling expenses of such person, and his actual expenses while so sitting, shall be paid by the Governor out of his civil contingent fund, on an itemized statement of such expenses certified by the person so appointed and serving.

Sections 13 to 20, and 23 and 24, of the Act of 1896, XXII., 3, for the organization of the Supreme Court, referring to its jurisdiction and the procedure therein, are transferred to Sections 11 to 14 of the Code of Civil Procedure, which see.

Objection must be made at trial.—Town of Clinton v. Leake, 71 S. C., 2, 50 S. E., 541.

Roster of Circuit Judges an assignment made, how and by whom.

Civ. '02, § 2780.

Sec. 3490. Between the first and fifteenth days of December in each year the Chief Justice, or in his absence or inability to attend, the senior Associate Justice, shall form a roster of the Circuit Judges of the several Circuits in order to arrange a regular and continuous assignment and interchange of Circuits among said Judges, and make an order assigning the several Circuit Judges to hold the several Circuit Courts in all of the Circuits of the State for the whole of the succeeding year in such order as will effect a continuous interchange of Circuits according to said numerical series. Immediately thereupon the Chief Justice, or, in his absence or inability to act, the senior Associate Justice, shall direct the Clerk of the Supreme Court to furnish each of the Circuit Judges, as well as the Chief Justice and senior Associate Justice, with a certified copy of said order, which shall be sufficient notice to the said Circuit Judges of their assignment aforesaid, and they shall proceed to hold the Courts in the Circuits to which they are respectively assigned at the times appointed by law for the several Circuit Courts to be held, and the Clerk of the Supreme Court shall also forthwith transmit a certified copy of said order to the Clerk of every Circuit Court of the State. As a compensation for the services thus required of the Clerk of the Supreme Court, he shall be entitled to draw from the State Treasurer, upon the warrant of the Comptroller-General, who is hereby directed to issue the same, the sum of ten dollars, to be paid out of any money in the State Treasury not otherwise appropriated.

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Sec. 3491. The Supreme Court is empowered to require the Sheriff of each and every County to whom any order or process issuing from said Court may be directed to serve and execute the same, and shall have the same power to enforce such service and execution and to punish default thereon as is vested in Circuit Courts in processes issuing therefrom. The Sheriff and Clerk of each and every County, whenever required, shall attend any hearing in any case by any of the Justices at the court house in any of the counties.

May require
Sheriffs to
serve process.
&c.

Civ. '02, §
2731.

Sec. 3492. The State Librarian shall distribute the copies of the Reports of the Decisions of the Supreme Court of South Carolina purchased by the State as follows: to the office of the Governor of the State, of the Attorney-General of the State and of the Attorney-General of the United States, one copy each; to the Library of the Supreme Court of the United States, the Congressional Library at Washington City, the Clerk of the Circuit Court of Appeals for the United States for the Fourth Circuit, the Library of the South Carolina University, and the Charleston Library Society; to the Clerk of the Circuit Court of the United States for the District of South Carolina, one copy each; to the Library of the Supreme Court of this State, eight copies; to every State and Territory of the United States from which this State receives two or more copies of each volume of their law reports, two copies each; and to every other State and Territory of the United States, one copy each; and all copies of South Carolina Reports, not heretofore disposed of and not distributed under the provisions of this Section shall be retained in the State Library for the use of this State.

Distribution
of Reports
of Supreme
Court.

Civ. '02, §
2732. 1908,
XXV, 1128.

Sec. 3493. In all actions and proceedings brought in the Supreme Court in its original jurisdiction, the Court shall have the power to provide, by rule, order or otherwise, for the payment of reasonable costs and disbursements of the action by the losing party, or otherwise, as in the judgment of the Court may be just and proper, such costs and disbursements to be taxed and adjusted by the Clerk of said Court under direction of the Court; that when the Clerk has taxed such costs and disbursements under the direction of

Costs in
actions
brought in
original jur-
isdiction of
Supreme
Court.

1909, XXVI,
162.

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the Court, he shall certify the taxation to the Clerk of the Court of Common Pleas for the County in which the party resides against whom such costs and disbursements have been taxed; that the said Clerk of the Court of Common Pleas shall enter judgment therefor, as other judgments are entered, and shall issue execution for the enforcement of said judgment; that the judgment so entered shall have the same force and effect in all respects as judgments rendered by the Court of Common Pleas: *Provided*, That in no case shall the costs exceed the sum of one hundred dollars.

CHAPTER LXXXVII.

Circuit Courts and Judges.

Sec.

3494. To be always open for certain purposes.
3495. Grant new trials; contempts; rules, &c.
3496. May change venue in civil and criminal cases; proviso.
3497. Powers of Judges at Chambers.
3498. Powers of Judges holding Courts in other Circuits.
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3500. Not to leave State without permission.
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Sec.

3503. Circuit Judges to notify Chief Justice of inability or disability to hold Court.
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3505. Special Courts; how obtained.
3506. How juries for are drawn and summoned.
3507. What business may be transacted.
3508. Salary of Special Judges.
3509. Special Judge may appoint a stenographer.
3510. Compensation for stenographer.

Section 3494. The Circuit Courts shall be deemed always open, for the purpose of issuing and returning mesne and final process and commissions, and for making and directing all interlocutory motions, orders, rules and other proceedings whatever, preparatory to the hearing of all causes pending therein upon their merits; and it shall be competent for any judge of the said Courts, upon reasonable notice to the parties, in the Clerk's office or at Chambers, and in vacation as well as in term, to make, direct, and award, all such process, commissions, and interlocutory orders, rules, and other proceedings, whenever the same are not grantable of course, according to the rules and practice of the Court.

To be always open for certain purposes.

Civ. '02, § 2733.

Order allowing supplemental complaint may be granted at chambers.—*Edwards v. Edwards*, 14 S. C., 11. And order amending complaint.—*Ellen v. Ellen*, 26 S. C., 99; 1 S. E., 413. Attachment may be dissolved at chambers.—*Cureton v. Darby*, 12 S. C., 125. Judge may vacate warrant of seizure under agricultural lien at chambers.—*Segler v. Coward*, 24 S. C., 122. But not after defendant has elected his remedy given him by the Statute and the issues are made up and referred to the Master.—*Garrington v. Gilliam*, 31 S. C., 333; 9 S. E., 1037. Judge has no power to vacate judgment as erroneous at chambers.—*Clawson v. Hutchison*, 14 S. C., 517; *Coleman v. Keels*, 30 S. C., 614; 9 S. E., 270. Order of Judge directing, on appeal, the County Commissioners to audit a claim, made out of Court and without

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notice, is invalid.—*In re Conant*, 24 S. C., 362. Judge cannot grant perpetual injunction at chambers against consent of party.—*Hornesby v. Burdell*, 9 S. C., 303.

Contempt proceedings.—*Battle v. Lumber Co.*, 72 S. C., 322; 51 S. E., 873; *Kirven v. Scarborough*, 70 S. C., 288; 49 S. E., 860. Writs of assistance may be granted at chambers.—*Murchison v. Miller*, 64 S. C., 425; 42 S. E., 177; *Ex parte Qualls*, 71 S. C., 87; 50 S. E., 646; *Dixon v. Floyd*, 73 S. C., 202; 50 S. E., 167. Making new parties at chambers.—*Hellams v. Prior*, 64 S. C., 543; 43 S. E., 25. Cannot alter decree out of term time, in another circuit or on *ex parte* application.—*William v. Ulmer*, 73 S. C., 579; 53 S. E., 999. Order for alimony at chambers.—*Messervy v. Messervy*, 79 S. C., 58; 60 S. E., 692. Order of discontinuance granted at chambers.—*Shelton v. Southern Ry.*, 80 S. C., 79; 61 S. E., 220.

May grant
new trials;
rules.

Civ. '02, §
2734.

Sec. 3495. Circuit Courts shall have power to grant new trials in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the Courts of law of this State; and they shall have power to administer all necessary oaths or affirmations, and punish by fine or imprisonment, at the discretion of said Courts, all contempts of authority in any cause or hearing before the same, and to make and establish all necessary rules for the orderly conducting of business in said Courts: *Provided*, Such rules are not repugnant to the laws of the State or the rules prescribed by the Justices of the Supreme Court and Circuit Judges.

To be liberally construed as to granting new trials.—*Elmore v. Scurry*, 1 S. C., 139. No time prescribed to move therefor.—*Sams v. Hoover*, 33 S. C., 401; 12 S. E., 8. Error in amount of verdict should be corrected by new trial.—*Wilson v. R. R.*, 16 S. C., 592; *Levi v. Legg*, 23 S. C., 282. New trial is the remedy where there is variance between the testimony and material allegation of the indictment.—*State v. Hamilton*, 17 S. C., 462. New trial should be granted when the jury disregard the Judge's charge.—*Dent v. Bryce*, 19 S. C., 14; *Thompson v. Lee*, 19 S. C., 489. Judge's conclusion as to new trial, when founded on the facts at trial, is final.—*Brickman v. R. R.*, 8 S. C., 173; *Steele v. R. R.*, 11 S. C., 589; *Warren v. Lagrone*, 12 S. C., 46; *Steele v. R. R.*, 14 S. C., 324; *Wood v. R. R.*, 19 S. C., 579; *Lanier v. Tolleson*, 20 S. C., 56; *Blakely v. Frazier*, 20 S. C., 144; *Finch v. Finch*, 21 S. C., 342; *Hyrne v. Erwin*, 23 S. C., 226; *State v. Tarrant*, 24 S. C., 593; *Wright v. C. & W. C. Ry. Co.*, 59 S. C., 268; *McGee v. Wells*, 57 S. C., 289; 35 S. E., 532. But not when founded on error of law.—*State v. David*, 14 S. C., 428; *Wood v. R. R.*, 19 S. C., 579. Judge has discretionary power to grant new trial on after-discovered testimony.—*State v. David*, 14 S. C., 428; *Tarrant v. Gilletson*, 14 S. C., 620; *State v. Workman*, 15 S. C., 540; *Durant v. Philpot*, 16 S. C., 116; *Waring v. R. R.*, 16 S. C., 416; *Sams v. Hoover*, 33 S. C., 401. In suits in equity as well as in actions at law.—*Durant v. Philpot*, 16 S. C., 116; *Covington v. Covington*, 47 S. C., 263; 25 S. E., 193. Misconduct of jurors as ground for.—*Watts v. S. B. R. R. Co.*, 60 S. C., 67; 38 S. E., 240; *Pulaski v. Ward*, 2 Rich., 122; *McCarty v. McCarty*, 4 Rich., 598; *Lott v. Mason*, 2 Strob., 183; *State v. Senn*, 32 S. C., 392; 11 S. E., 296; *State v. Way*, 38 S. C., 833; 17 S. E., 35; *State v. Nance*, 25 S. C., 172. New trial, *not*, for excessive verdict.—*Stuckey v. A. C. L. Ry. Co.*, 57 S. C., 395; 35 S. E., 550. Circuit Court has no power to grant new trials, except in cases tried by a jury.—*Meetze v. R. R.*, 23 S. C., 1; Judge cannot grant at chambers.—*State v. Chavis*, 34 S. C., 132; 13 S. E.,

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17; *Bank v. Mellett*, 44 S. C., 388; 22 S. E., 444; *Donly v. Fort*, 42 S. C., 100; 20 S. E., 51. As to punishment for contempt.—*Gibson v. Gibson*, 7 S. C., 356.

New trial for inadequacy of damages.—*Bodie v. C. & W. C. Ry.*, 66 S. C., 102; 44 S. E., 943.

Discretion—new trial.—*State v. Hayes*, 69 S. C., 295; 48 S. E., 251. Not compelled to grant new trial, where Judge would have found a smaller verdict if on the jury.—*Williams v. Tolbert*, 76 S. C., 211; 56 S. E., 908; *Chazminger v. Ry.*, 79 S. C., 151; 60 S. E., 441. Grounds for; review.—*Reed v. Ry.*, 75 S. C., 162; 55 S. E., 218. *Trimmer v. A. C. L. Ry. Co.*, 81 S. C., 213; 62 S. E., 209.

After-discovered evidence.—*Wardlaw v. Oil Mill*, 74 S. C., 368; 54 S. E., 58; *State v. Johnson*, 74 S. C., 401; 54 S. E., 601.

Where no evidence to support verdict, order appealable.—*Sutton v. Catawba Power Company*, 76 S. C., 320; 56 S. E., 966.

New trial granted one defendant, sets aside verdict as to both.—*Barfield v. Coker*, 73 S. C., 181; 53 S. E., 170. Granted as to whole case, where verdict is general.—*Barfield v. Coker*, 73 S. C., 181; 53 S. E., 170.

Abandonment of appeal cannot be imposed as a condition for new trial.—*Wall v. N. W. R. R. Co.*, 81 S. C., 522; 62 S. E., 848. Nor impose any arbitrary condition.—*Jackson v. So. Oil Co.*, 81 S. C., 564; 62 S. E., 854.

New trial after appeal in criminal case.—*State v. Adams*, 73 S. C., 435; 53 S. E., 538; *State v. Lee*, 80 S. C., 367; 61 S. E., 964; *State v. Turner*, 39 S. C., 436.

New trial on ground of after-discovered evidence may be granted by circuit court while appeal is pending in Supreme Court.—*Mills v. A. C. L. R. Co.*, 82 S. C., 126; 63 S. E., 308.

Sec. 3496. The Circuit Courts shall have power to change the venue in all cases, civil and criminal, pending therein, and over which said Courts have original jurisdiction, by ordering the record to be removed to another County in the same Circuit. The application for removal must be made to the Judge sitting in regular term by some party interested, or by the Solicitor of the Circuit, or accused, supported by affidavit that a fair and impartial trial cannot be had in the County where such action or prosecution was commenced. The State shall have the same right to make application for a change of venue that a defendant has in cases of murder, arson, rape, burglary, perjury, forgery and grand larceny: *Provided*, No change of venue shall be granted in such cases until a true bill has been found by grand jury. Four days' notice of such application in civil and criminal cases shall be given to the adverse party, and if a change is ordered, it shall be to a County in the same Judicial Circuit: *Provided, further*, That such adverse party to whom said notice is given shall have the right to waive the same; and the Circuit Judge shall have the power, on application made to him by either party, upon proper

Change of venue, when and how made.

Civ. '02, § 2735. 1905, XXIV, 845.

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cause shown, to shorten or extend the time for the hearing of such application for a change of venue.

This power is discretionary.—Taylor v. Williamson, McM. Eq., 348; State v. Coleman, 8 S. C., 237; McFall v. Barnwell County, 54 S. C., 368; 32 S. C., 417. But its exercise may sometimes be reviewed.—Gower v. Thomas, 6 S. C., 313; Parker v. Grimes, 9 S. C., 284; Blakely v. Frazier, 11 S. C., 122; Carroll v. C. & S. R. R. Co., 61 S. C., 251; 39 S. E., 364. It can only be exercised for cause shown.—Taylor v. Williamson, McM. Eq., 348; Blakely v. Frazier, 11 S. C., 122. In criminal case application for removal should be made after issue joined.—State v. Addison, 2 S. C., 356. The affidavits should be strong.—State v. Williams, 2 McC., 388. Affidavits.—State v. Sullivan, 2 S. C., 400; 17 S. E., 865. Power exercised at chambers.—Utsey v. C. S. & N. Ry. Co., 38 S. C., 399; 17 S. E., 141. Time of notice.—Willoughby v. N. E. Ry. Co., 46 S. E., 317; 24 S. E., 308.

Judge at chambers cannot grant change of venue on ground that justice would be promoted thereby.—Castles v. Lancaster County, 74 S. C., 312; 55 S. E., 115.

Motion to change venue may be made before answer on four days' notice where wrong County is named in complaint.—Fishburne v. Minott, 72 S. C., 572; 52 S. E., 646.

Powers of
Circuit Judge
at Chambers.

Civ. '02.
2736. 1908.
XXV, 1055.

Sec. 3497. The Judges of the Court of Common Pleas shall have power at Chambers to grant writs of prohibition, mandamus and certiorari, and to hear and determine motions to set aside or stay execution in the same manner in every respect as if the Court were actually sitting, and with the consent of all such adult parties as may have answered, or their attorneys, in a cause, and of the guardian *ad litem* of infants therein; to hear and determine any matter not properly triable before a jury, and the persons, respectively, shall have the same right of appeal as if the decision was made in open Court; they may hear and determine actions for partition and foreclosure suits when not contested, either within or without the County where the land in question lies, and may grant all writs and processes in such actions at Chambers, in like manner and with the same effect as are now granted in term time, with the consent of all such adult parties as may have answered, or their attorneys, and of the guardian *ad litem* of infants therein, and in default cases of foreclosure may render judgment as in open Court.

May grant suit money and alimony pendente lite at chambers.—Smith v. Smith, 51 S. C., 379; 29 S. E., 227. Application for writ of mandamus cannot be heard outside of circuit.—State *ex rel.* LaMotte v. Smith, 50 S. C., 558; 27 S. E., 933. May authorize issuance of receiver's certificates.—State v. P. R. & A. Ry. Co., 45 S. C., 413; 23 S. E., 362. As to limit of power in granting prohibition.—State v. Stackhouse, 14 S. C., 417; State v. Columbia, 17 S. C., 80. As to *mandamus*.—State v. R. R., 16 S. C., 524. As to *certiorari*.—State v. Black, 34 S. C., 194; 13 S. E., 361. As to execution.—

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Duncan v. Brown, 15 S. C., 414; Wolfe v. R. R., 25 S. C., 379; Crocker v. Allen, 34 S. C., 452; 13 S. E., 650. Without consent, Judge cannot so determine an action.—Hornesby v. Burdell, 9 S. C., 303. Such power in cases of partition and foreclosure prior to the amendment of the statute could only be exercised by the Judge while in the County where the land lies.—Woodward v. Elliott, 26 S. C., 368; 1 S. E., 413; Kaminsky v. Trantham, 45 S. C., 8; 22 S. E., 746. Judgment cannot be vacated at chambers.—Bank v. Mellett, 44 S. C., 383; 22 S. E., 444; Turner v. Foreman, 47 S. C., 81; 24 S. E., 989. Nor can a judgment be rendered at chambers.—Badham v. Brabham, 54 S. C., 400; 32 S. E., 444.

Cannot hear mandamus out of County.—Kirven v. Scarborough, 70 S. C., 288; 49 S. E., 860.

Prohibition not remedy to prevent illegal taking of land by city.—Riley v. Greenwood, 72 S. C., 90; 51 S. E., 532.—State *ex rel.* Gilbert v. Kirkland, 41 S. C., 29.

Consent to jurisdiction at chambers need not be in writing.—Pearson *ex parte*, 79 S. C., 302; 60 S. E., 706.

Order of discontinuance at chambers.—80 S. C., Shelton v. So. Ry., 74; 61 S. E., 220.

Consent by guardian irregularly appointed.—Middleton v. Stokes, 71 S. C., 17; 50 S. E., 539.

Consent, by request, to hear proceedings in contempt at chambers gives jurisdiction.—Smith v. Smith, 77 S. C., 67; 57 S. E., 666. Consent of mortgagor cannot confer jurisdiction on court in another County than that in which land is located to render decree of foreclosure.—Silcox & Co. v. Jones, 80 S. C., 484; 61 S. E., 948. But jurisdiction of person may be given by consent.—*Ibid.* McGrath v. Ins. Co., 74 S. C., 69; 54 S. E., 218; Messervy v. Messervy, 80 S. C., 277; 61 S. E., 442.

Sec. 3498. Every Judge, while holding the Circuit Court for any Circuit pursuant to the provisions of the law of this State, shall be invested with powers equal to those of the Judge of such Circuit, and may hear and determine all causes and motions and grant all orders in open Court or at Chambers which it is competent for the Judge residing in such Circuit to hear, determine, or grant, any law, usage, or custom to the contrary notwithstanding.

Powers of Judge's holding Courts in other Circuits.

Civ. '02, § 2737.

Non-resident Judge may make order at chambers requiring juries to be drawn, while presiding in circuit.—State v. Powers, 59 S. C., 367; 37 S. E., 690. But when specially assigned for a special term of Court can transact no other business than that on the calendars.—Simms v. Phillips, 46 S. C., 149; 24 S. E., 97. A Judge has no authority beyond his own Circuit except that conferred by Statute.—*Ex parte* Parker, 6 S. C., 476. He may determine a cause heard by him in one Circuit after he has entered upon the duties of another.—Chafee v. Rainey, 21 S. C., 17.

Order discontinuance at chambers.—Shelton v. Ry., 80 S. C., 74; 61 S. E., 220. Judge loses jurisdiction where he leaves circuit over matter not then finally submitted to him.—Whilden v. Chapman, 80 S. C., 84; 61 S. E., 249.

Sec. 3499. Every Circuit Judge in this State shall at all times have jurisdiction to discharge and perform all the duties of his office within the Circuit wherein he resides, except the holding of Circuit Courts therein when some other Circuit Judge shall be engaged in holding said Courts.

To discharge all duties on Circuits.

Civ. '02, § 2738.

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He cannot hear and determine at chambers in another Circuit on application for writ of *mandamus* in a case arising within his own Circuit.—*State ex rel. LaMotte v. Smith*, 50 S. C., 558 : 27 S. E., 933. His signing an order of bail outside of his Circuit for a prisoner of his Circuit does not show that he heard the application beyond his Circuit.—*State v. Satterwhite*, 20 S. C., 536.

Cannot absent themselves from State without permission.

Sec. 3500. No Circuit Judge shall absent himself from this State without leave first granted in writing by the Chief Justice or presiding Associate Justice.

Civ. '02, § 2739.

Sec. 3501. The Circuit Judges shall each receive an annual salary of three thousand dollars.

Salary.

Civ. '02, § 2740.

As to interchange of Circuits, see Sec. 3490, *ante*.

To be held amenable for neglect of duty as to holding terms, &c., proceedings to be taken.

Sec. 3502. If any Circuit Judge shall fail or neglect to hold the term or terms of any Court of General Sessions or Common Pleas in any Circuit to which he may be assigned until the business of said Courts shall have been disposed of, or the end of the term, or terms, arrives, or shall fail to recognize and obey the order of assignment of the Chief Justice or presiding Associate Justice, or shall violate any provisions of this Chapter, the Attorney-General of the State shall, upon any reliable information of the same, by official communication, bring such violations of this Chapter to the notice of the General Assembly at its first session, and such Circuit Judge shall be held amenable to proceedings for neglect of duty, as provided in the Constitution.

Circuit Judges to notify Chief Justice of inability or disability to hold Court.

Civ. '02, § 2742.

Sec. 3503. It shall be the duty of each Circuit Judge, when disabled by sickness or other cause to hold any Court to which he may be assigned, to give, or cause to be given, prompt notice of such inability or disability to the Chief Justice, so that his place may be temporarily filled and the Court held according to law.

Provision where Judge is unable to hold courts.

Civ. '02, § 2743.

Sec. 3504. Whenever any Circuit Judge, pending his assignment to hold the Courts of any Circuit, shall die, resign, be disabled by illness, or be absent from the State, or in case of a vacancy in the office of Circuit Judge of any Circuit, or in case the Chief Justice or presiding Associate Justice of the Supreme Court shall order a special Court of Common Pleas and General Sessions, or Common Pleas, or General Sessions, in any County in this State, upon a satisfactory showing that such special Court is needed, the Chief Justice or presiding Associate Justice may assign any other Circuit Judge disengaged to hold the Courts of such

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Special
Courts, when
and how cre-
ated.

Circuits, or to fill any appointment made necessary by such vacancy, or to hold such special Court; and in the event that there be no other Circuit Judge disengaged, then the Governor, upon the recommendation of the Supreme Court, or the Chief Justice thereof if the Supreme Court be not in session, shall immediately commission as special Judge such person learned in the law as shall be recommended to hold Courts of such Circuit or to hold such special Court for that term only. And any special Judge so appointed shall receive as compensation for his services the salary prescribed in Section 3508. Whenever the time fixed for holding any of the Courts of General Sessions or Common Pleas in this State should be found to be not sufficient for the trial of all cases before said Court, a like assignment of a disengaged Circuit Judge or commission of a special Judge may be made to hold the Court to which the Judge then holding such overcrowded Court may have been in due course next assigned, and the term of such overcrowded Court shall proceed until the cases before it are disposed of.

Sec. 3505. Upon the application to the Governor by the Solicitor of any Circuit, stating that the public interest demands an extra term of the Court of General Sessions in any County of the State, or upon the application of the majority of the members of the bar of any County, stating that the civil business demands an extra term of the Court of Common Pleas, it shall be the duty of the Governor to appoint some man, learned in the law, and to be suggested by the Chief Justice of the Supreme Court of the State, to hold an extra term of said Court or Courts in said County, and notify the Clerk of said Court of said appointment.

Special
Courts; how
obtained.Civ. '02, §
2744.

For special term.—State v. Gallman, 79 S. C., 229; 60 S. E., 682.

Sec. 3506. When notified of such appointment, the Clerk of the said Court shall notify the proper authorities, and the grand jury shall be summoned to attend, if it be a Court of sessions, and a petit jury shall be drawn and summoned, if jury cases are to be tried, in the regular manner, for the purposes of said Court, and as the same may be necessary, and the Clerk shall notify said special Judge of the time fixed for holding said special term of Court.

How juries
for, are
drawn and
summoned.Civ. '02, §
2745.

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What business may be transacted.

Civ. '02, § 2748.

Sec. 3507. If a special term of the Court of General Sessions only is ordered, after disposing of the sessions business, the said Judge may also open the Court of Common Pleas for the transaction of any business which the parties or their attorneys may consent to be disposed of by him.

Salary of Special Judge.

Civ. '02, § 2747.

Sec. 3508. The said special Judge shall be allowed for his services ten dollars per day and his necessary expenses, and the same per diem for not exceeding five days for the preparation of his decrees.

When a stenographer for special term of Court may be appointed.

Civ. '02, § 2748.

Sec. 3509. It shall be lawful for the presiding Judge at any special term of the Circuit Court, where the official Stenographer is performing the duties of his office at a Court then being held in some other County of the Circuit, to appoint a Stenographer for said term of the Court, who shall perform the duties of the office of Court Stenographer for said term of Court.

Compensation of.

Civ. '02, § 2749.

Sec. 3510. The Stenographer appointed under the provisions of the foregoing Section shall receive the same compensation as that allowed by law to the official Stenographer in proportion to the time of service, to be paid out of the County treasury, upon the warrant of the Clerk of the Court, approved by the presiding Judge, and also the usual fees for copies of testimony and reports of Court proceedings, to be paid by the parties ordering the same.

CHAPTER LXXXVIII.

County Courts.

Sec.
3511-12. When they may be established. Elections as to.
3513. Jurisdiction defined.
3514. Courts of record.
3515-16. Same pleading and practice as in Circuit Courts.
3517. Appeals to Circuit Court.
3518. Peremptory challenges to jurors in.
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3520. County Judge, election, term.
3521. County Judge, powers and duties.
3522. Terms of Court.
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3526. Clerk of Court.
3527. Sheriff.
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3532. County Solicitor to be appointed.
3533. Further duties of.
3534. Salary of Judge and Solicitor.
3535. Judge and Solicitor prohibited practicing in certain cases.
3536. Judge to appoint stenographer.
3537. Counties excepted from Chapter.

Section 3511. Whenever one-third of the qualified registered electors of any County in this State shall file a petition with the Clerk of the Circuit Court of such County, praying for an election to be held in such County on the question of the establishment of a County Court therein, it shall be the duty of the said Clerk within ten days, to make an order thereon, and serve the same on the Commissioners of Election, requiring the said Commissioners of Election of such County to hold an election, after first giving at least thirty days' notice thereof in the newspapers of such County, on the question of establishing a County Court in such County, not later than sixty days nor earlier than forty days thereafter. Said petition shall be accompanied by a certificate from the Board of Supervisors of Registration that the names appearing upon said petition constitute one-third of the qualified registered electors of such County: *Provided*, That an election on said question shall not be had in any County more than once in four years; that at such election the question of the establishment of such County Court shall be submitted to the electors in this form: "Shall a County

C o u n t y
C o u r t s ; h o w
t h e y m a y b e
e s t a b l i s h e d .

Civ. '02, §
2750.

Petition.

Election.

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Court be established for the County of?" inserting the name of the County in which the electors voting are resident, and upon this question the electors shall vote "Yes" or "No."

If established they shall have jurisdiction.

Civ. '02, § 2751.

Sec. 3512. In the event a majority of the qualified electors voting at such election in any one or more of the Counties of the State shall vote "Yes" upon such question, then such County Court shall be, and hereby is, established and for each of the Counties in which a majority of the qualified electors so vote, with such jurisdiction and powers as is hereinafter provided.

To try all criminal cases except murder, manslaughter, rape and attempt to rape, arson, common law burglary, bribery and perjury.

Civ. '02, § 2752.

Sec. 3513. The said County Court shall have jurisdiction to try and determine all criminal cases, except cases for murder, manslaughter, rape and attempt to rape, arson, common law burglary, bribery and perjury. The said Court shall likewise have jurisdiction to try and determine all civil cases and special proceedings, both at law and in equity, where the value of the property in controversy of the amount claimed does not exceed one thousand dollars, and shall likewise hear and determine all appeals taken from judgments rendered by Magistrates: *Provided*, That the County Court shall not have jurisdiction to try any action involving the title to real estate.

Shall be a Court of record.

Civ. '02, § 2753.

Sec. 3514. The said County Court shall be a Court of record, and the same presumption in favor of its jurisdiction and the validity of its judgments shall be indulged in the case of judgments rendered by the Circuit Court.

Forms of pleading and practice in, to be same as in Circuit Court.

Civ. '02, § 2754.

Sec. 3515. The same form of pleading and the same rules of procedure, practice and evidence shall obtain in the said County Court as is provided by law for the conduct and trial of cases, civil and criminal, in the Circuit Courts: *Provided*, In all criminal cases wherein the punishment does not exceed a fine of one hundred dollars and imprisonment for thirty days, the same shall be tried without presentment by a grand jury on information filed by the County Solicitor.

General laws applying to County Courts.

Civ. '02, § 2755.

Sec. 3516. All general laws and statutory provisions applying generally to the Circuit Courts of this State and trials of causes therein shall apply to the said County Court, and the conduct and trial of causes therein, where not inconsistent with any of the provisions of this Chapter.

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Sec. 3517. The right of appeal shall exist from the judgment of the said County Court to the Circuit Court: *Provided*, That on appeal to the Circuit Court the same shall be heard by the presiding Judge without a jury, as in case of appeals from Courts of Magistrates, and all of the rules, practice and procedure now governing appeals from the said Courts of Magistrates shall apply to appeals from the County Court to the Circuit Court, and the Circuit Court shall have the same power in passing upon and deciding the same as now possessed in passing upon and deciding appeals from the Courts of Magistrates: *Provided, further*, That in all appeals taken from the judgment of the County Court to the Circuit Court, the Stenographer of the County Court shall make in writing a transcript of the testimony and other proceedings had in the cause in the County Court, certified by the County Judge, and lodge the same with the clerk of the Circuit Court at least fifteen days before the next term of the said Circuit Court, upon being paid by the party so appealing three cents per hundred words for the said transcript. In case of the failure or refusal of the party so appealing to pay for the said transcript, such appeal shall be dismissed by the Circuit Court as for want of prosecution: *Provided*, If the party appealing makes it appear by affidavit that he is not able to pay for such transcript of the testimony, then the Stenographer shall furnish the same free of charge: *Provided*, That in no case shall the Stenographer's fee exceed ten dollars. In case the attorneys for the appellant and respondent shall agree upon a statement of the case as prepared by them for the hearing before the Circuit Court, such statement of the case shall be sufficient return from the County Court, and no transcript or other paper from the County Court shall be necessary.

Appeals from judgments of

Civ. '02, § 2756

Sec. 3518. In the selection of a jury for the trial of criminal cases in said County Court, the accused, when charged with a misdemeanor, shall be entitled to peremptory challenges not exceeding three, and the State two; and in the trial of cases of felony, the accused shall be entitled to peremptory challenges not exceeding five, and the State three. In cases where there are two or more persons jointly indicted and so tried, the accused shall be jointly entitled to

Rights of challenge of jurors in County Courts.

Civ. '02, § 2757.

2538. 1912.

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§ Petit jury to consist of six persons.

Civ. '02, 2758.

When Judge may try case without a jury.

County Judge: how elected: term of office, &c.

Civ. '02, 2759.

Jurisdiction of County Judge.

Civ. '02, 2760.

Terms of Court.

Civ. '02, 2761.

six peremptory challenges in cases of misdemeanor and eight peremptory challenges in cases of felony, and no more.

Sec. 3519. Where a jury is required by law in the trial of causes, civil and criminal, in said Court, such jury shall consist of six persons: All criminal cases wherein the punishment does not exceed a fine of one hundred dollars or imprisonment for thirty days shall be tried before the County Judge without a jury, unless a trial by jury is demanded by the accused. Such cases wherein a trial by jury is not so demanded shall be carried to the foot of the calendar, to await trial by the County Judge after the jury cases for the term have been disposed of.

Sec. 3520. At the next ensuing general election the qualified electors of each of the Counties in which a majority of the said electors shall have voted for the establishment of said County Court, shall elect a resident attorney at law thereof as County Judge. Such County Judge shall be the presiding Judge of the County Court, and shall hold his office for four years and until his successor has been elected and has qualified. The said County Judge, before entering upon the duties of his office, shall take the same oath of office as that required by law of Circuit Judges, and shall be commissioned in the same manner as Circuit Judges.

Sec. 3521. As to all cases and special proceedings within the jurisdiction of the County Court and pending therein the County Judge of the County shall have the same jurisdiction with reference thereto, both in open Court and in Chambers, as is possessed by Circuit Judges over cases pending in the Circuit Courts over which they are presiding or in the Circuits in which they are resident.

Sec. 3522. The said County Court shall hold its first term on the first Monday in the calendar month next succeeding the election and qualification of said County Judge, and hold a term beginning on the first Monday in every alternate month thereafter: *Provided*, Should the time at which any term of said Court is fixed conflict with the time of holding the Circuit Court for such County, then the term of the County Court shall begin on the Monday succeeding the time for the final adjournment of the Circuit Court. The said County Court shall continue in session at each of its said terms until the business before it has been disposed

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of; and shall be open for the trial of cases, civil and criminal, from the beginning to the end of each of its said terms.

Sec. 3523. The grand jury as drawn in accordance with law for service upon the Court of General Sessions in each of the said Counties shall constitute the grand jury for the said County Court, and shall meet with the said County Court at each of its terms, except the term next succeeding each session of the Circuit Court, at which term the grand jury need not meet with the County Court.

Grand jury
for County
Court.Civ. '02, §
2762.

Sec. 3524. The Board of Jury Commissioners as constituted by law in each of the Counties of the State for the drawing of jurors for the Circuit Courts shall constitute the Board of Jury Commissioners for the drawing of jurors to attend upon the sessions of the County Court, and the law relating to the qualifications, drawing and summoning of jurors for attendance upon the Circuit Courts shall apply to the qualifications, drawing and summoning of jurors for the County Court: *Provided*, That not more than eighteen persons shall be drawn and summoned to attend at the same time at any session of the County Court unless the Court shall otherwise order. Jurors drawn and summoned shall appear and attend upon the sessions of the said County Court for which summoned until excused or discharged by the Judge presiding: *Provided*, That service as a juror in the County Court shall not be held to exempt the juror from service as such in the Circuit Court in the same year.

How jurors
for shall be
drawn.Civ. '02, §
2763.

Sec. 3525. It shall be the duty of the County Solicitor to prepare and, through the presiding Judge of the Court of General Sessions, submit to the grand jury, while in attendance upon the Court of General Sessions, bills of indictment in all cases pending in the County Court where the punishment exceeds a fine of one hundred dollars or imprisonment for thirty days, and have not been previously found on by the grand jury; and the grand jury shall act thereon, and report the same to the presiding Judge, and the said Judge shall direct the Clerk of the Court of General Sessions to report the same to the presiding Judge of the County Court at its next ensuing term. All cases in which bills of indictment are so found shall stand for trial at the County Court as though found by the grand jury in attendance upon the County Court.

Duty of the
County Solicitor.Civ. '02, §
2764.

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Clerk of Circuit Court as
officio Clerk
of County
Court.

Civ. '02, §
2765.

Duty of Sheriff.

Civ. '02, §
2766.

Bailiffs; how
appointed and
pay of.

Civ. '02, §
2767.

Compensation
of jurors
and witnesses.

Civ. '02, §
2768.

Jurisdiction
of Magistrates
in Counties
where County
Courts are
established,
and duties
thereof.

Civ. '02, §
2769.

Sec. 3526. The Clerk of the Circuit Court shall be *ex officio* Clerk of the County Court, and shall keep such calendars, minutes and records of the said County Court, and the causes therein pending, and attend and perform such duties as the Clerk thereof, as is required of him by law as Clerk of the Circuit Court. For services performed as Clerk of the County Court he shall receive the same compensation as if performed by him as Clerk of the Circuit Court.

Sec. 3527. The Sheriff of the County shall attend upon all sessions of the said County Court, and shall be subject to the orders thereof, and shall execute the orders, writs and mandates of the said County Court, as required by law of him with reference to the Circuit Court. For all such service he shall receive the same compensation as is allowed by law for similar services in the Circuit Court: *Provided*, That for serving each venire for the County Court, the Sheriff shall receive the sum of ten dollars.

Sec. 3528. The presiding Judge of the said County Court may appoint a sufficient number of bailiffs; not exceeding three, to attend upon the said Court, and be subject to the orders thereof. Such bailiffs shall receive as compensation for their services one dollar per day for the time actually engaged, and shall not be retained in attendance upon the Court longer than the exigencies of the business of the Court shall require.

Sec. 3529. Grand and petit jurors in attendance upon the sessions of the said County Court shall receive as a compensation for their services one dollar per day, and five cents per mile for necessary travel in going to and returning from the County seat. Witnesses in attendance upon the said County Court shall receive the same compensation as witnesses in attendance upon the Circuit Court.

Sec. 3530. The jurisdiction of Magistrates in criminal cases in all Counties wherein said County Court shall be established is hereby abolished: *Provided*, It shall be the duty of said Magistrates, and they shall have the power, to issue warrants and hold preliminary examinations in all criminal cases, and take such action therein as is now provided by law in criminal cases beyond their jurisdiction: in committing or binding over defendants and witnesses, it shall be the duty of said Magistrates to commit and bind

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over for trial at the next ensuing session of the County Court—except in those cases over which the County Court has no jurisdiction, in which case the said Magistrates shall commit or bind over for trial in the Court of General Sessions: *Provided, further*, It shall be the duty of said Magistrates, in binding over witnesses, to appear and testify, on behalf of the State, before the County Court, in cases wherein the punishment exceeds a fine of one hundred dollars or imprisonment for thirty days, to insert a provision in the recognizance requiring said witnesses to appear and testify in said case before the grand jury, at the next ensuing term of the Circuit Court, when the said next ensuing term of the Circuit Court is appointed by law to be held before a term of the County Court; it shall be the duty of said Magistrates, immediately after committing or binding over a defendant for trial, to lodge with the Clerk of the court by which the said defendant is to be tried, all papers and proceedings connected with the said case: *Provided*, that the Circuit Solicitor shall have the power to direct that cases may be tried before the Court of Sessions in all cases when the said Court has concurrent jurisdiction with the County Court.

Sec. 3531. The jurisdiction of Magistrates in civil cases and special proceedings in all Counties wherein said County Court shall be established is hereby limited to cases and proceedings wherein the value of the property in controversy or the amount claimed does not exceed twenty-five dollars.

Sec. 3532. It shall be the duty of the Governor, upon the recommendation of the members of the General Assembly from each of the Counties where said County Court has been established, to appoint for each of said Counties a resident attorney at law as County Solicitor, whose term of office shall continue until his successor shall have been elected by the qualified electors of the County at the next succeeding general election, and until his said successor qualifies. After the first term herein provided for, the term of the County Solicitor shall be for four years, and until the election and qualification of a successor, the qualified electors electing such successor at the general election occurring every four years.

Sec. 3533. The said County Solicitor shall represent the State in all cases brought before the said County Court

Jurisdiction
of Magistrates
in civil cases.

Civ. '02, §
2770.

County Solli-
citor; how ap-
pointed; term
of office, &c.

Civ. '02, §
2771.

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Duties of
County Solicitor.Civ. '02, §
2772.

wherein the State is a party, and shall have the same power and perform the same duties with reference thereto as a Circuit Solicitor with reference to cases brought before the Court of General Sessions. He shall also attend all inquests held by the Coroner, aid in procuring evidence, and represent the State in the examination of witnesses at such inquests; and he shall *ex officio* be the legal adviser of the County Board of Commissioners without extra compensation.

Salaries of
Judges and
Solicitors of
County Courts.Civ. '02, §
2773.

Sec. 3534. The said County Judge shall receive as a compensation for his services the sum of one thousand dollars per annum, and the said County Solicitor the sum of three hundred dollars per annum, to be paid by the County.

Judge and
Solicitor pro-
hibited prac-
ticing in any
cause of which
County Court
has jurisdic-
tion.Civ. '02, §
2774.

Sec. 3535. The said County Judge and County Solicitor are prohibited from practicing as attorneys at law in any cause or matter of which the said County Court has jurisdiction, or may acquire jurisdiction, and upon conviction of any wilful violation of this Section, the offender shall be adjudged to have forfeited his office and shall be sentenced to pay a fine of not less than two hundred nor more than five hundred dollars, and be imprisoned for a period of not less than one month nor more than six months: *Provided*. The said County Solicitor shall be at liberty to practice in all causes and matters on the civil side of said Court.

Judge shall
appoint a ste-
nographer;
salary of, &c.Civ. '02, §
2775.

Sec. 3536. The County Judge in each of the Counties wherein the said County Court is established shall appoint for the said County Court an official Stenographer, who shall attend upon the sessions of the said Court and perform the same duties in connection therewith as are performed by Circuit Stenographers in the Circuit Courts. The said Stenographer shall receive from the County wherein he is appointed a salary of three hundred dollars per year.

Counties ex-
cepted.Civ. '02, §
2776.

Sec. 3537. The provisions of this Chapter shall not apply to the Counties of Abbeville, Anderson, Bamberg, Beaufort, Berkeley, Charleston, Chester, Chesterfield, Clarendon, Cherokee, Dorchester, Edgefield, Fairfield, Florence, Greenwood, Georgetown, Horry, Marion, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Oconee, Pickens, Saluda, Sumter, Union, Williamsburg, Kershaw, Barnwell, Spartanburg, Greenville and York.

CHAPTER LXXXIX.

The City Court and the Police Court of Charleston.

EC.
3538. Court to be held by Recorder;
his salary and how paid.
3539. Appointment; term of office;
sessions of Court.
3540. Jurisdiction of Court.
3541. Jury.
3542. Board of Jury Commission-
ers; who shall constitute.
3543. Qualifications of jurors.
3544. Rules; who to prescribe.
3545. Writs and processes.
3546. Power of the Court; of the
Recorder; extent of author-
ity; return of writs.
3547. Right of appeal to Supreme
Court.

SEC.
3548. Transfer of judgments, &c.,
from City Court to Circuit
Court.
3549. Clerk and Sheriff; powers of.
3550. To draw jurors; when.
3551. Fees of officers.
3552. Police Court established.
3553. Examination of persons ar-
rested.
3554. Forfeiture of deposit.
3555. Jury may be demanded.
3556. Stenographer.
3557. Police officer to be in at-
tendance.
3558. Recorder not to appear in
any cause heard by him.

This Chapter amended by Act 1903, XXIV., 89.

Section 3538. The Court heretofore established and called the City Court of Charleston shall be held by the Recorder of the City of Charleston; and the City Council shall fix and provide such compensation for the Recorder as may be fit and proper, and proportioned to the importance of his position, which compensation shall not be increased or diminished during his continuance in office, to be paid by the City.
To be holden by Recorder of Charleston; salary of Recorder and how paid.
Civ. '02, § 2777.

Sec. 3539. The said Recorder shall be appointed by the City Council of Charleston, and hold his commission during good behavior; and he shall sit at such times as may be fixed by the ordinances of the City Council of Charleston from time to time.
Recorder's term of office, sessions of Court.
Civ. '02, § 2778.

His authority is not derived directly from the State, but from the City Council, and his commission need not be issued by the State.—Eggleston v. City Council, 1 Mill, 45.

Sec. 3540. The jurisdiction of the City Court of Charleston shall be limited to the trial of causes arising under the ordinances of the City Council of Charleston.
Jurisdiction of Court.
Civ. '02, § 2779.

That jurisdiction exercised.—Thomas v. Dyott, 1 McC., 76; Jackson v. City Council, 1 McC., 288; Green v. Smith, 1 McC., 324; Moore v. Brown, 3 McC., 487; Brown v. Overstreet, 4 McC., 79; City Council v. King, 4 McC., 487.

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McKenzie v. Ramsey, 1 Ball., 457; Bartlett v. Brisbane, 2 Rich., 489; Crowell v. In. Co., 2 Rich., 512; City Council v. Stelges, 10 Rich., 438; Cohen v. Wigfall, 8 Rich., 237; Charleston v. Oliver, 16 S. C., 47; Information v. Oliver, 21 S. C., 318. Such Court has no jurisdiction in cases of attachment—Tolman v. Thompson, 2 McC., 43; Roddy v. Aiken, Dud., 232. Nor where defendant is not resident in the city.—Gildersleeve v. Alexander, 2 Spec. 298; Whiting v. Pritchard, 1 Rich., 304. Except for violation of ordinance—City Council v. Pepper, 1 Rich., 304. Nor in cases involving an amount exceeding one hundred dollars.—City Council v. Ashley Phosphate Co., 3 S. C., 541; 13 S. E., 845.

Jury.

1903, XXIV, 69.

Sec. 3541. All issues, controversies and litigations in the said Court, if demanded by either party, shall be tried by a jury composed of six persons, according to the regulations and forms prescribed by law in cases of trial by jury, and as hereinafter provided.

Board of Jury Commissioners; who shall constitute.

Id.

Sheriff to provide jury list.

Drawing of jury.

Sec. 3542. The Clerk of the City Court, the City Treasurer and the City Assessor shall constitute the Board of Jury Commissioners for the City Court of Charleston: *Provided*, In case any member of the Board of Jury Commissioners fail to attend for the purpose of drawing a jury, a majority of the Board may act. The City Sheriff shall, upon the passage of this Act, and hereafter on the 1st day of January of each year, provide a list of twenty-five hundred legally qualified jurors, from which list the Board of Jury Commissioners shall cause the names to be written, each on a separate paper or ballot, and shall fold up said pieces of paper or ballots so as to resemble each other as much as possible, so that the names written thereon shall not be visible on the outside, and shall place them with the said list in a box to be furnished to them by the City Council of Charleston, which box shall be in custody of the Clerk of Court. The jury box shall be provided with three locks, each different. The key to one lock shall be kept by the Clerk of the City Court, one by the City Treasurer and one by the City Assessor, so that no two of said Commissioners shall hold keys to the same lock. When jurors are to be drawn, the Board of Jury Commissioners shall attend at the office of the Clerk of the City Court, and in the presence of the Sheriff shall shake up the names of the jury box until they are well mixed, and having unlocked said box the Board of Jury Commissioners, or a majority of them, shall proceed to draw therefrom, without seeing the names written thereon, a number of ballots equal to the number of jurors required, and which jury shall be summoned for

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the trial of causes in like manner and under the same penalties as are established by law and usage in the Circuit Court: *Provided*, That no *venire facias* shall at any time issue for more than eighteen jurors to serve at one Court, from whom a jury (or two juries, if the Recorder shall regard more than one jury necessary for the proper dispatch of the business before the Court,) shall be empanelled; and in case of non-attendance of the jurors so drawn and summoned, their places may be supplied by talesmen, drawn in the usual mode; but no person shall be liable to serve twice until all the names in the said jury box shall be drawn out.

Sec. 3543. All persons possessing the qualifications prescribed for jurors by the laws of the State, and usually residing in the city, or who have resided therein for four months before their being sworn, and there being at the time of being drawn and summoned, shall be liable to serve as jurors in the said Court, saving and reserving to all persons all lawful excuse and exemptions as in other Courts.

Qualifications
of jurors.

Ib.

Sec. 3544. It shall be lawful for the City Council and the said Recorder to prescribe, and from time to time to regulate, the practice of the said Court, and of the attorneys therein, conformably to this Chapter, and as nearly as may be to the forms and rules used in the Circuit Courts of this State, and the proceedings shall be the same substantially as in like cases; except in cases for the violation of ordinances, when imprisonment is imposed in addition or in the alternative of a fine, in which case the prosecution shall be in the form of an information on the official oath of the Corporation Counsel.

City Council
and Recorder
to prescribe
rules of practice, etc.

Ib.

Proceedings on information.—Information v. Oliver, 21 S. C., 318; Information v. Jager, 29 S. C., 438; 7 S. E., 605.

Sec. 3545. All writs and processes shall be issued by the clerk of the said Court, and shall be made returnable to the next day of the term next succeeding the issuing of the same.

Writs and
processes shall
be issued by
Clerk.

Ib.

Every process must show jurisdiction.—Truchelut ads. City Council, 1 N. & C., 227. Process may bear test before accrual of the right of action.—City Council v. Schmidt, 11 Rich., 343.

Sec. 3546. The said Court is invested with power and authority to grant rules, to hear and determine motions for new trial, in arrest of judgment, and all questions of law

Jurisdiction
of Court.

Ib.

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arising out of causes within its jurisdiction; to issue subpoenas for the attendance of witnesses, to grant commissions for the examination of witnesses, to issue executions of *feri facias* against the real and personal property of defendants, to issue writs of *capius ad respondendum*, to punish for contempt, and also all other the usual process, according to the known and approved rules of the common law and of the Acts of the Assembly in such cases provided; the Recorder shall have the same powers in the discharge of his duties as the Judges of the Court of Sessions and Common Pleas in like cases; but it is hereby declared and provided that no process or writ issuing out of the said Court shall extend or be of force for service or execution out of the limits of the said city, except commissions to examine witnesses; and all writs shall be served and returned ten days before the sitting of the Court aforesaid.

Commission to examine witnesses.—*Haviland v. Simons*, 4 Rich., 338.

Right of appeal.

Ib.

Sec. 3547. All parties shall have the same right of appeal to the Supreme Court from the decisions of the said City Court, in the same form which is now or may be lawful for parties in the Circuit Courts in like cases, and the Supreme Court shall hear and determine such appeals in the same manner as appeals from the Circuit Court of Charleston County.

City Council v. Weller, 34 S. C., 357; 13 S. E., 628.

Judgments to be transferred to Circuit Court offices.

Ib.

Sec. 3548. All judgments in the office of the Clerk of the said City Court, and all executions, writs and processes in the office of the Sheriff of the City of Charleston, other than judgments, executions and processes arising under the ordinances of the City Council of Charleston, shall be transferred, respectively, to the offices of the Clerk of the Circuit Court and of the Sheriff of the County of Charleston, which causes, judgments, executions, writs and processes shall be of like validity and force as if the same had originated or been sued out of the Circuit Court for the said County.

City Council v. Weller, 34 S. C., 357.

Sec. 3549. The Clerk and Sheriff of the said City Court of Charleston shall have the same powers and authority in

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Clerk and Sheriff to have same powers as those of Circuit Court.

Ib.

To draw jury in Recorder's absence.

Ib.

Fees the same as Circuit Court.

Ib.

Police Court established.

Ib.

Examination of persons arrested.

Ib.

Forfeited of deposit; when

Ib.

all cases within the jurisdiction of the said Court as the Clerks and Sheriffs of the Circuit Courts.

Sec. 3550. In case of the sickness or absence from the State of the Recorder, they shall have power, and are hereby authorized and required to draw juries for the succeeding term.

Sec. 3551. The charges and fees of the several officers of the City Court shall be the same as in the Circuit Court in like cases.

Sec. 3552. There shall be established a Court in the city of Charleston known as the Police Court of the city of Charleston, which shall be held by the Recorder of the city of Charleston. The said Recorder, and any Magistrate holding the Police Court of the city of Charleston, in the case of absence, sickness or other disability of such Recorder, is invested with jurisdiction to hear and determine all cases of a criminal nature occurring within the limits of the city of Charleston, which are not within the exclusive jurisdiction of the Court of General Sessions: that is to say, any such officer holding the Police Court shall have jurisdiction of all offenses committed within the limits of the city of Charleston on arrest by the police or municipal authorities, which may be subject to the penalties of fine or forfeiture not exceeding one hundred dollars, or imprisonment, with or without hard labor, not exceeding thirty days, and may impose any sentence within these limits singly or in the alternative.

Sec. 3553. Upon the sworn information of any member of the police force or municipal officer, and such officer holding the said Police Court as aforesaid, shall proceed to the examination of any charge against any person arrested and brought before him, and upon the same appearing not to be within the jurisdiction of the said Police Court, he shall refer the same to a Ministerial Magistrate as such for examination, to be by such Ministerial Magistrate referred to the Judicial Magistrate's Court of the city of Charleston, or Court of General Sessions, as may be proper.

Sec. 3554. Upon any charge made as above against any person released on deposit and not appearing when called, by such officer holding the said Police Court shall order the said deposits forfeited.

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Jury may be
demanded.*Id.*

Sec. 3555. In the trial of any case in the said Police Court, upon the demand for a jury, the same shall be summoned and empanelled in the said Police Court, in accordance with the law for empanelling juries in Magistrate Courts.

Sworn sten-
ographer may
transcribe
testimony.*Id.*

Sec. 3556. In taking of testimony and preparation of the record in cases of appeal from the said Police Court, the transcript of the notes of the testimony taken of the trial by a sworn Stenographer shall be held to be equivalent to the testimony signed by the witnesses, and the Recorder is hereby authorized and empowered to appoint a suitable person as official Stenographer of said Police Court, who, after being duly sworn, shall take all testimony before said Police Court.

Police officer
to be in at-
tendance.*Id.*

Sec. 3557. It shall be the duty of one of the officers of the police force to be in constant attendance on said Court and to take proper measures for the safe keeping of the prisoners and for carrying into effect the orders of said Court.

Recorder not
to appear in
any cause
heard by him.*Id.*

Sec. 3558. The said Recorder shall not be permitted to plead in a Superior Court in any cause which has been argued before or adjudged by him. The Recorder is hereby clothed with all the powers, duties and jurisdiction of a Judicial Magistrate, except that he shall not receive any additional compensation, and shall not have the authority of a Magistrate to appoint a Constable. In case of the sickness or other unavoidable absence of the Recorder, the Police Court shall be held by one of the Aldermen of the city of Charleston, or by one of the Magistrates for Charleston County, as may be designated by the Mayor.

CHAPTER XC.

Court for the Arbitration of Mercantile Disputes in the City of Charleston.

SEC.
3559. Establishment of Court; to be Court of Record.
3560. Jurisdiction specified.
3561. Arbitration; Arbitration Clerk, duties of; compensation, &c.
3562. Arbitrator to adopt seal; may interpret and construe contracts.
3563. Rules of procedure, &c.
3564. Issue of summons for appearance before Chamber of Commerce; in what cases.
3565. Papers, when filed; objection to jurisdiction, &c.
3566. Proceedings before Arbitrator; appointment of persons to sit with him; adjournments.

SEC.
3567. Co-arbitrators to be sworn; arbitrator's powers in respect to witnesses and evidence.
3568. Award, when and where to be filed; orders in pursuance of award; where to be filed.
3569. Judgment on award to be entered in Circuit Court; its effect; how enforced; when it may be appealed from, reversed or modified.
3570. Arbitrator may suspend order, grant a rehearing, &c.
3571. Limitation of jurisdiction, &c.

Section 3559. A Court for the hearing and determining Establishment of Court; to be a Court of Record.
mercantile disputes within the city and port of Charleston, or the collection district of said port, as the same is
now or may hereafter be established by any Act of the Congress of the United States of America, is hereby created, constituted, and established, and the same is hereby authorized to be a Court of record, possessing concurrent jurisdiction with the Court of Common Pleas upon all matters of mercantile disputes, as the same are hereby and hereinafter defined. Civ. '02, § 2798.

Sec. 3560. The said Court shall have jurisdiction, as Jurisdiction specified.
hereinbefore provided, over all disputes or matters of difference upon any mercantile or commercial subject as the same
are herein defined, that is to say, over all matters of accounts, promissory notes, bills of exchange, and other negotiable paper, policies of insurance, charter parties, and other contracts concerning freight, either express or implied, bills of lading and other contracts, express or implied, concerning the delivery of goods, wares, and merchandise brought into the State in ships or vessels, or otherwise from Civ. '02, § 2799.

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a sister State, or from a foreign port, contracts of bailment of every kind and description soever, controversies in regard to telegraphic dispatches, and generally all commercial contracts, and all matters between merchants and persons in trade arising out of or being in due course of business.

Arbitrator,
Arbitration
Clerk; duties
of; compensa-
tion.

Civ. '02, §
2800.

Sec. 3561. The Recorder of the City of Charleston shall be, and is hereby declared to be, *ex officio* Arbitrator, to be known as the Arbitrator of the Charleston Chamber of Commerce, and he is hereby authorized, empowered, and directed to have and perform the functions, duties, and powers provided for in this Chapter in connection with his said office. The Governor shall commission such person as may be elected by the Charleston Chamber of Commerce to be the Arbitration Clerk of the said Chamber; and such person shall take and subscribe an oath faithfully to perform his duties under this Chapter, which oath shall be filed in the office of the Secretary of State at Columbia. The said Clerk shall safely and correctly keep all the minutes, documents, records, books, and other papers and effects of the Arbitrator and of the Board provided in this Chapter, and relating to the arbitrations which may be had hereunder; and the sittings and business of the said Arbitrator and Board shall be had and conducted, and the office of the said Clerk shall be, in a building or room provided by the said Chamber of Commerce, at its own proper expense and charges; and the compensation of the Clerk shall be a docket fee of five dollars for each case, and also such other and further sum for labor as the Arbitrator or Board of Arbitration shall allow in any case; and he shall be subject to removal by said Chamber for cause, whereupon they shall elect his successor, who shall be commissioned as aforesaid.

Arbitrator to
adopt seal;
may interpret
and construe
contracts.

Civ. '02, §
2801.

Sec. 3562. The Arbitrator shall devise and adopt a seal which shall be the seal of his office, and be used to authenticate all awards and orders made pursuant to this Chapter, and copies and certificates thereof; and in all Courts and places, any instrument sealed with such seal, and signed by such Arbitrator, shall be received as *prima facie* evidence of the existence of such award or order, and of the contents thereof and shall have the same force and effect as the original thereof. Upon the application of the parties interested, or their representatives, the said Arbitrator shall

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interpret and construe any parol or written contract pertaining to any matter which might be the subject of arbitration under the provisions of this Chapter.

Sec. 3563. The said Arbitrator shall adopt short and simple forms and rules to be observed in proceedings under this Chapter, and shall have the power to do and order whatever may be necessary to carry out its provisions. In all cases where an immediate hearing is desired by both parties, or is practicable, it shall be had.

Sec. 3564. Any party or parties having a controversy, dispute, or matter of difference, upon any mercantile or commercial subject, as hereinafter defined, may summon the opposite party or parties to appear before the Charleston Chamber of Commerce, for the settlement of such controversy, dispute, or matter of difference, on a day and hour named in such summons, which shall not be less than two or more than five days after the personal service of such summons upon such opposite party, or one or two more parties jointly interested in the subject-matter of the controversy: *Provided*, All parties are regularly elected members of said Chamber of Commerce; and parties whether members of such Chamber of Commerce or not, to any such controversy, dispute, or matter of difference, arising or being within the city or port of Charleston, or relating to a subject matter situate or coming within said city or port, as the collection district of said port is now or hereafter may be established and limited by Act of Congress of the United States of America, may voluntarily appear before and submit the same to the said Chamber of Commerce, and the said Chamber shall thereupon entertain jurisdiction of such controversy, dispute, or matter of difference, and of the parties hereto.

Sec. 3565. At the time mentioned in such summons, the party or parties serving such summons shall file such summons, with proof of service, with the Arbitration Clerk hereinafter provided for, and either party may file with him a written declaration, duly acknowledged, objecting to the jurisdiction of the Chamber of Commerce aforesaid in the matter mentioned in such summons; and upon the filing of each written objection, such matter shall be dismissed, and no further proceedings shall be had therein under the pro-

Rules of procedure.

Civ. '02, § 2802.

Parties litigant to appear before Chamber of Commerce.

Civ. '02, § 2803.

Papers to be filed with the Arbitration Clerk; failure to file objection to jurisdiction; persons not members of Chamber, to appear in person or by attorney.

Civ. '02, § 2804.

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visions of this Chapter; and if at the time mentioned in such summons the party or parties named therein, or either of them, do not file such written objection, they, and each and every one of them, shall be deemed and held to have fully submitted to the jurisdiction of said Chamber in such matter, and the arbitration hereinafter provided and the further proceedings therein shall be in accordance with the provisions of this Chapter; and it shall be competent for any member of a firm to file such objection on behalf of himself and his copartners, and for any agent or attorney in fact or other representative, to do so on behalf of his principal. A copy of this Section of this Chapter shall be served with and in the same manner as the summons. But no person not a member of the said Chamber shall be deemed to have submitted under the provisions of this Section, unless he shall voluntarily appear in person, or by attorney, and signify his submission to the jurisdiction of said Chamber.

Settlement of
differences;
parties may
each appoint
one person to
sit with arbi-
trator; ad-
journment.

Civ. '02, §
2805.

Sec. 3566. Upon the said Chamber of Commerce acquiring jurisdiction as aforesaid, of any matter pursuant to the provisions of this Chapter, such matter shall be proceeded upon with dispatch to a settlement by the Arbitrator or Board of Arbitration provided for by the provisions of this Chapter. The respective parties to such matter shall each be entitled, at the time of submitting to such jurisdiction, as herein provided, to nominate and appoint, in writing, one person to sit with the Arbitrator to hear and determine the matter, and the award made by them, or the majority of them, shall be deemed and held to be the award therein; and if the said parties refuse or neglect to nominate and appoint, each, one person, as aforesaid, then they shall be deemed and held to have waived their rights to do so, and the matter shall proceed before the Arbitrator, hereinafter provided for, as sole arbitrator to hear and determine said matter. Adjournments may be had upon reasonable cause shown; but if any person named by either party shall fail to appear at the time set for the hearing of the matter without good reason shown for such failure, to the satisfaction of the Arbitrator, and that the same is only of a temporary nature, his nomination and appointment shall thereupon be declared and held to be vacated, and the same party shall forthwith nominate and appoint another person to act in

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his place, and upon failure to do so, the Arbitrator hereinafter provided for shall appoint a disinterested person, not of kin to either party, to act in his place; and upon failure of one party to nominate a person to sit with the arbitrator, when the opposing party has nominated such a person, then the Arbitrator hereinafter provided for shall appoint a disinterested person, not of kin to either party, and not nominated by the opposing party, to act as a member of the Board of Arbitration, and the matter shall proceed as if such party had appointed such person to act.

Sec. 3567. The persons appointed by or for the respective parties shall be duly sworn, before the Arbitrator, honestly, truly and fairly to hear and determine the matter thus submitted to them, and their oaths subscribed by them, respectively, shall be filed with the award in such matter. Arbitrators to be sworn; arbitrator to administer oaths. The Arbitrator shall have full power to administer oaths and affirmations, and to take the proof and acknowledgment of all charter parties, marine protests, contracts, and other written instruments, and to issue subpoenas for witnesses to appear and testify, with like effect and penalties as subpoenas issued by Courts of justice. All wilful false swearing in any proceeding under the provisions of this Chapter shall be deemed and held to be wilful perjury, and indictable and punishable as such. After the allegations and proofs of the respective parties have been heard, the Arbitrator shall have power, upon notice to both parties, to summon any person to give testimony before the Arbitrator or the Board, if he or they shall deem such additional testimony necessary to enable them to do justice between the parties. Civ. '02, § 2806.

Sec. 3568. After the final hearing, the Arbitrator, or Board, or a majority thereof, shall make an award, in writing, under his or their hands, stating the settlement of the controversy, dispute, or matter of difference, heard and determined by him or them, and file the same within five days after such final hearing with the Arbitration Clerk hereinafter provided for; and if the said award shall require any contract or require either party or both parties to do or forbear doing a particular act or acts, or to pay a sum of money, the Arbitrator hereinafter mentioned shall, at the request of either party, make an order to that effect, Award after final hearing; order to be filed with Clerk. Civ. '02, § 2807.

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and otherwise to carry out the provisions of the award which order shall, at the instance of either party be filed by such party in the office of the Clerk of Court of Common Pleas in and for the County wherein such arbitration is held; and it shall be the duty of the said Clerk of the Court of Common Pleas, upon being paid his fees therefor, to docket such order.

Award may be entered up as judgments now are; judgments not to be reversed except for frauds.

Civ. '02, § 2808.

Sec. 3569. If such order shall require the payment of a sum of money, or the delivery of any property, any party may enter up, in the manner now prescribed by law for entering judgments of the Circuit Court, a judgment against the party or parties required to pay such sum of money, or deliver any property, and in favor of the party or parties to whom it should be paid or delivered; and execution may thereupon be issued and enforced thereon as and with like effect and validity as on a judgment of the Circuit Court entered up in said office; and the said judgment shall, in other respects, conform to said orders; and when so entered have the same force and effect as a judgment of the Circuit Court of similar purport, and shall be enforced in the same methods, and by the same processes and officers, and upon the payment of the fees now allowed by law. And in case any such order shall be filed, and judgment entered thereon, as aforesaid, in the said Court of Common Pleas, the same may be satisfied of record, and discharged in the same manner as judgments of the Circuit Court are or may be satisfied and discharged. Judgments entered in conformity with these provisions shall not be subject to be removed, reversed, modified, or in any manner appealed from by the parties thereto, except for frauds, collusion, or corruption of said Arbitrator or Board, or either of them.

Award to be conclusive: rehearings: mode of conducting.

Civ. '02, § 2809.

Sec. 3570. The award of the Arbitrator or Board, as provided for in this Chapter, shall be binding and conclusive upon all parties thereto, and shall effect and secure a final settlement of the matter submitted under the provisions of this Chapter for his or their decision and award, and shall be upheld and sustained in all the Courts of this State; but the Arbitrator hereinafter provided for shall have power, for good cause shown, upon notice to and hearing the parties, to suspend and defer making the order for carrying out the provisions of the award, to order that the cause be heard again before the same or other persons

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be nominated and appointed as allowed by this Chapter in the case of the first hearing. But the party applying for such rehearing shall stipulate to pay all the costs and expenses of the other party or parties incident to such rehearing, and shall give security therefor, and for the payment or performance of any award which shall be rendered against such applying party, or judgment which shall be entered thereon, in such amount and form as shall be approved by the said Arbitrator. Upon such rehearing, similar proceedings shall be had as in the case of the first hearing; and all the provisions of this Chapter applying to the first hearing, the award, the order and subsequent proceedings thereon, shall apply similarly in and to all cases of rehearing. On the first hearing, no costs shall be allowed to either party.

Sec. 3571. Nothing in this Chapter shall be construed to give any jurisdiction to the Charleston Chamber of Commerce, to the Arbitrator or Board, except upon the voluntary submission and election of the parties as provided for in this Chapter; nor shall any minor, married woman, nor person of unsound mind, nor any matter pertaining to a fee simple tenancy in real estate, nor wherein the title to real estate is concerned, be brought before such Arbitrator or Board of Arbitration; nor shall any cause or matter submitted to the Arbitrator or Board as provided in this Chapter be subject to removal by or to the jurisdiction of any of the Courts of this State, except as herein provided; nor shall this Chapter apply to any cause or matter which is pending in any of the Courts of this State or before an arbitration committee established by law previous to the filing of the summons as provided in this Chapter. The voluntary submission to arbitration of the particular cases contemplated in this Chapter, and in the methods herein provided, need not be in writing otherwise than as herein provided. This Chapter shall not be held to repeal the existing Statutes in relation to arbitration. Commissions to take testimony allowed by the arbitration may be issued in the same manner and with the same effect as in Courts of record. Witnesses shall be entitled to the same costs as in Courts. No person not a regularly elected member of the Chamber of Commerce shall be nominated or appointed by any party to a cause to sit with the Arbitrator as herein provided.

Denial of jurisdiction in certain cases; Commissions to take testimony.

Civ. '02, § 2810.

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CHAPTER XCI.

Attorneys, Solicitors and Counsellors.

SEC.

3572. Penalty for practicing unless admitted and sworn.
 3573. License to be granted only by Supreme Court.
 3574. State Board of Law Examiners; term; appointments.
 3575. Examination of applicants for license as attorney; report oath.
 3576. Qualification.
 3577. Compensation of Board.
 3578. Rules.
 3579. Attorneys from other States.
 3580. Exceptions.

SEC.

3581. Oath; roll.
 3582. Removal or suspension for disorderly conduct, &c.
 3583. Removal or suspension for deceit, malpractice, &c. proceedings.
 3584. Penalty for speculation in securities.
 3585. Not allowed more than two hours for argument.
 3586. Citizens may prosecute and defend their own cases and for others without fee.

Penalty for practicing unless admitted and sworn.

Civ. '02, § 2811.

Section 3572. No person whatsoever shall practice or solicit the cause of any other person in any Court of this State unless he has been admitted and sworn as an attorney under a penalty of five hundred dollars for every cause in which he shall so solicit, one-half to the State and the other half to him or them that will sue for the same.

Practicing law defined.—*In re Duncan*, 82 S. C., 186; 65 S. E., 210

License to be granted only by Supreme Court.

Civ. '02, § 2812.

Supreme Court to appoint law examiners to examine applicants for admission to the bar.

1910, XXVI, 750.

Sec. 3573. No original license to practice as an attorney, solicitor or counsellor shall be granted except by the Supreme Court.

Sec. 3574. All applications for admission to the bar of this State shall be made by petition to the Supreme Court. A State Board of Law Examiners is hereby created to consist of three members of the bar, of at least ten years standing, who shall hold office for the term of three years. Said appointment shall be made as follows: The Supreme Court shall appoint three law examiners, who must be actually engaged in the practice of law. Said examiners shall hold office for one, two and three years, respectively, to be designated by the Justices of the Supreme Court. After the first appointment the Supreme Court shall annually appoint a member of said Board in the place of the examiner whose term shall expire. Members of said

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and shall be eligible to reappointment for the term of years. In case of any vacancy in said Board by reason of death, resignation or otherwise, the Supreme Court shall fill said vacancy by the appointment of a member of said Board to serve until the expiration of the term for which the person so dying or resigning had been appointed. Not more than one member of said Board shall be appointed in any one Congressional District.

Sec. 3575. All applications for admission to the bar shall be referred by the Supreme Court to the State Board of Examiners, who shall examine the applicant, touching his qualifications for admission to the bar. The said Board shall report their proceedings in the examination of applicants to the Supreme Court, with any recommendations the Board may desire to make. If the Supreme Court shall then find the applicant to be qualified to discharge the duties of an attorney, and to be of good moral character and worthy to be admitted, they shall pass an order admitting him to practice in all the courts of this State, on his taking and subscribing the oath required by Section 26, Article III of the Constitution, and the oath respecting the bar.

Examination;
report;
oath.

Ib.

Sec. 3576. Every applicant for admission must present to the Board of Examiners satisfactory proof, in writing, by examination, or otherwise, as the Board may direct, that he has had a preliminary, general education, equivalent to that of a graduate of a high school of this State, and must also present such proof as the Board directs that he has studied law in a law school in any part of the United States, or in the office, under the direction of a member of the bar of this State, for a period of two years, during at least thirty-six weeks in each year: *Provided*, That the applicant produces satisfactory proof to the Board that he has studied law in a law school in any part of the United States, or in the office, or under direction of a member of the bar of this State for a period of two years, during at least thirty-six weeks in each year, such applicant shall be eligible to admission to practice law in this State after standing a satisfactory examination before said Board. And each application shall be accompanied by an application fee of five dollars to be paid to the Clerk, and

Qualifications
required.

Ib.

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should the applicant be admitted to practice he shall pay an additional fee of five dollars as an admission fee, to be paid to the State Treasurer.

Compensation of Board.

Id.

Sec. 3577. Each member of the Board of Law Examiners shall receive as compensation for his service the sum of one hundred and fifty dollars per annum, to be paid as the salaries of other State officers are paid. No other or further charges or fees shall be demanded of or collected from any person upon his admission to practice than the fees mentioned in Section 3576.

Rules.

Id.

Sec. 3578. The Justices of the Supreme Court shall have the power to pass such rules as may be necessary to carry into effect the provisions of this Chapter, and from time to time amend said rules as occasion may require. The said Board of Examiners may also make rules for their conduct and government, not inconsistent with the provisions of law, subject to the approval of the Supreme Court.

Attorneys from other States.

Id.

Sec. 3579. Members of the bar of any State, district or territory of the United States, who, for five years after admission, have been engaged as practitioners, judges or teachers of law, shall be admitted without examination on proof of good moral character, after becoming actual residents of this State. Members of the bar of any other State, district or territory of the United States, who may be employed as counsel in any case pending before any of the Courts of this State, may be admitted for all the purposes of the case in which they are so employed by the Court before which said case is pending, without examination. Nothing herein contained shall be construed to deprive Courts of this State of the power, as at present existing, of disbarring or otherwise punishing members of the bar.

Graduates of Law School of University of South Carolina excepted.

Id.

Sec. 3580. The provisions of Sections 3574 to 3579 inclusive, shall not apply to graduates of the Law Department of the University of South Carolina, but such graduates, upon the production of diplomas of graduation and satisfactory evidence of good moral character, shall be admitted as heretofore.

Oath; roll.

Civ. '02, § 2814.

Sec. 3581. The oaths required to be taken by this Chapter shall be administered in open Court, and the name of the person taking the same entered in a roll or book kept for that purpose, and a certificate of said oaths shall be filed in Court.

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Sec. 3582. Attorneys, solicitors, and counsellors, may be removed or suspended, and, also, in aggravated cases, imprisoned, not exceeding twenty-four hours, by the several Courts in which they have been admitted to practice, if, in the presence of such Court, they are guilty of any disorderly conduct causing an interruption of business or amounting to an open and direct contempt of the Court, his authority or person; but, subject to such removal, they shall hold their office for life.

Removal or suspension.

Civ. '02, § 2815.

Disbarment of attorneys.—In re Duncan, 64 S. C., 461; 42 S. E., 433; 80 S. C., 303; 83 S. C., 186; 65 S. E., 210.

Sec. 3583. Any attorney, solicitor, or counsellor, may be removed or suspended who shall be guilty of any deceit, malpractice, or misdemeanor; but not until a copy of the charges against him shall have been delivered to him by the Clerk of the Court in which the proceedings shall be had, and an opportunity shall have been given him of being heard in his defence.

Cause for removal; entitled to be heard.

Civ. '02, § 2816.

State v. Holding, 1 McC., 379; *Hynmen v. Washington*, 2 McC., 498; *Fatson v. Bank*, 5 S. C., 159.

Sec. 3584. If any attorney, solicitor, or counsellor, shall enter into any speculating practices by purchasing, or procuring to be purchased, any note or other demand for the purpose of putting the same in suit, when otherwise the owner or holder thereof would not sue the same, such attorney, solicitor, or counsellor, shall pay a fine of one hundred dollars, and shall thereafter be incapable of practicing as such in any Court, until restored by the Supreme Court.

Penalty for speculating.

Civ. '02, § 2817.

Cooke v. Poole, 25 S. C., 593.

Sec. 3585. No attorney, solicitor, or counsellor, shall be allowed to occupy more than two hours of the time of the Court in the argument of any cause, unless he shall first obtain the special permission of the Court to do so.

Not to argue longer than two hours.

Civ. '02, § 2818.

State v. Jones, 29 S. C., 201; 7 S. E., 296.

Sec. 3586. This Chapter shall not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires, or the cause of another, with leave of the Court first had and obtained: *Provided*, That he declare an oath, if required, that he neither has nor will accept or receive any fee, gratuity, or reward, on account of such prosecution or defence, or for any other matter relating to the said cause.

Citizens may appear in person; for others, without reward.

Civ. '02, § 2819.

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CHAPTER XCII.

Special Provisions Respecting Courts and the Administration of Justice, and Certain Rights and Remedies.

ARTICLE 1. Special Provisions Respecting Courts and the Administration of Justice.

ARTICLE 2. Certain Rights and Remedies.

ARTICLE I.

SPECIAL PROVISIONS RESPECTING COURTS AND THE ADMINISTRATION OF JUSTICE.

SEC.

3587. No Judge to preside when related to party within sixth degree.

3588. Rights in Courts not affected by race or color.

3589. Persons appointed by U. S. may prosecute in behalf of U. S.; proviso.

3590. Seals of Courts of Common Pleas.

3591. Attendants at Courts exempt from arrest; exception.

3592. Penalty for contempt of Court; offender to be heard.

3593. Violation of the peace within the hearing of the Court.

3594. Witness, juror or party may affirm, according to his profession.

3595. Moneys paid into Court to be deposited in bank.

SEC.

3596. How to be drawn; proviso.

3597. Clerk to obey order of Court to deposit; penalty.

3598. Effect on writs, &c., of failure of Court to sit as required by law.

3599. Transcripts of judgments and decrees of U. S. Courts to be filed in office Clerk of Court.

3600. Money may be deposited with officers of Courts in lieu of bonds.

3601. To whom money must be paid.

3602. Receipt for; when to be paid back.

3603. Payment of money to minors.

3604. Time within which Masters and Referees must file reports.

When Judge disqualified.

Civ. '02, § 2820.

Section 3587. No Judge or other judicial officer shall preside on the trial of any cause where he may be connected with either of the parties, by consanguinity or affinity, within the sixth degree.

Method of computing degree of relationship.—*Ex parte Kreps*, 61 S. C., 29 39 S. F., 181. Relations' ip by affinity must be shown to continue.—*Ehrhard v. Breeland*, 57 S. C., 142; 35 S. E., 536.

Party knowing of disqualification, and not objecting to hearing before Judge, waives the right to object.—*Ex parte Hilton*, 64 S. C., 201; 41 S. F., 978. *Town of Clinton v. Leake*, 71 S. C., —; 50 S. E., 541. Second causes are within the sixth degree.—*State v. Byrd*, 72 S. C., 104; 51 S. E., 542.

Sec. 3588. Wherever authority has heretofore been conferred by law upon any free white person or persons to institute any suit or proceedings, or to prefer any information or complaint in any matter, civil, penal, or criminal, the same rights shall be enjoyed by, and the same remedies applicable to, all persons whatsoever, regardless of race or color, subject to the same conditions, and none others.

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Rights in
Courts not af-
fected by race
or color.Civ. '02, §
2821.

Sec. 3589. It shall and may be lawful for all and every person or persons authorized and appointed by the United States for that purpose, in their name, and in their behalf, to commence and to prosecute to final decree, judgment, and execution, any action or actions, for the recovery from individuals of debts due, and effects belonging to, the United States: *Provided*, That all and every such action shall be conducted in the same manner, and subject to the same rules and regulations, as when commenced by one citizen of this State against another citizen thereof, and that the defendant or defendants be allowed the same privileges and advantages as he, she, or they would be entitled to if sued by a citizen of this State.

Persons ap-
pointed by U.
S. may prose-
cute in behalf
of U. S.; pro-
viso.Civ. '02, §
2822.

Sec. 3590. The Courts of Common Pleas shall, at the expense of the State, have a seal for each County, of an impression similar to that of the Court of Common Pleas

Seals of
Courts of
Common
Pleas.

Charleston County, and uniform with that seal; except that each seal shall in the legend have the name of the Court in which it is used. The said seals shall always be fixed to such proceedings of the said respective Courts as may require the same.

Civ. '02, §
2823.

Sec. 3591. All persons necessarily going to, and attending on, or returning from, the Courts of record of this State, (allowing thirty miles per day for the traveling of such persons,) shall be free from arrest, except on criminal process for treason, felony, or breach of the peace.

Attendants
at Courts ex-
empt from ar-
rest.Civ. '02, §
2824.

This exemption from arrest is the privilege of the Court, and not of the party; and indulgence to him will not be extended to him further than necessary and expedient.—*Hunter v. Cleveland*, 1 Brev., 167. And one Court will not allow arrest by its process of a witness of another Court.—*Vincent v. Mason*, 1 Rich., 194. The privilege is limited to exemption of the person from arrest, and does not invalidate service of process at same time.—*Sadler v. May*, 5 Rich., 523.

Sec. 3592. In case any person shall commit any misbehavior or contempt in any Court of judicature in this State,

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Penalty for
contempt of
Court; offend-
er to be heard.

Civ. '02, §
2825.

by word or gesture, it shall and may be lawful for the Judges of every such Court to set a fine on such offender, in any sum not exceeding fifty dollars, for the use of this State, and may commit the offender till payment; but if any person shall, in the presence and during the sitting of the Court, strike or use any violence therein, such person shall be fined at the discretion of the said Court, and shall be committed till payment: *Provided*, That no citizen of this State shall be sent to jail for any contempt of Court, or supposed contempt of Court, committed during the sitting of the Court, and in disturbance of the Court, until he be brought before the Court, and there be heard by himself or counsel, or shall stand mute.

As to Magistrate Courts.—*Lining v. Bentham*, 2 Bay, 1; *State v. Johnson*, 2 Bay, 385; *State v. Applegate*, 2 McC., 110; *Edmunson v. Frean*, 2 Ill. 410. As to Circuit Courts.—*Lott v. Landifer*, 2 Mill, 167; *Johnson v. Willman*, Dud., 70; *State v. Hunt*, 4 Strob., 322; *In Re Corbin*, 8 S. C., 390. *State v. Blackwell*, 10 S. C., 35. As to attorneys.—*State v. Hunt*, 4 Strob., 322; *In Re Corbin*, 8 S. C., 390. As to witnesses.—*Lott v. Landifer*, 2 Mill, 167; *Johnson v. Willman*, Dud., 70. As to others.—*State v. Blackwell*, 10 S. C., 35. Proceedings by rule is proper in cases of contempt.—*State v. Hunt*, 4 Strob., 322. In cases here mentioned it need not be on oath.—*State v. Blackwell*, 10 S. C., 35. Decision thereon is appealable.—*State v. Hunt*, 4 Strob., 322.

Violation of
the peace
within the
hearing of
the Court.

Civ. '02, §
2826.

Sec. 3593. When any affray shall happen during the sitting of any Court within this State, and within the hearing or to the disturbance of the Court, the Court shall order the Sheriff, or other lawful officer, to take the affrayers, or other disturbers of the peace, or those guilty of contempt, and bring the offender or offenders before the Court, and the Court shall make such order or orders thereon as is or may be consistent with law, justice, and good order.

Witness, juror, or party,
may affirm,
according to
his profession.

Civ. '02, §
2827.

Sec. 3594. Any juror, witness, or party to any proceeding, in any and all Courts of this State, may make solemn and conscientious affirmation and declaration, according to the form of his religious belief or profession, as to any matter or thing whereof an oath is required; and such affirmation and declaration shall be held as valid and effectual as if such person had taken an oath on the Holy Evangelists.

Moneys paid
into Court to
be deposited.

Civ. '02, §
2828.

Sec. 3595. All moneys, except fines and penalties paid under sentence in criminal cases, which shall be paid into the Circuit or Probate Courts of the State, or received by the officers thereof in causes pending therein, shall be imme-

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diately deposited in some incorporated State bank or National bank within the Circuit, of good credit and standing; or, if there be no such bank within the Circuit, then in such bank nearest to the place of holding the Circuit, in the name and to the credit of the Court.

Sec. 3596. No money deposited as aforesaid shall be drawn from said banks, except by order of the Judge of said Courts respectively, in term or in vacation, to be signed by such Judge, and to be entered and certified of record by the Clerk; and every such order shall state the cause in or on account of which it is drawn: *Provided*, That money paid into Court to be immediately paid out need not be so deposited, but shall be paid upon order of the Court.

How to be drawn; proviso.

Civ. '02, § 2829.

Sec. 3597. If any Clerk of such Courts, or other officers thereof, having received such moneys as aforesaid, shall refuse or neglect to obey the order of such Court, for depositing the same as aforesaid, such Clerk or other officer shall be forthwith proceeded against by attachment for contempt.

Clerk to obey order of Court to deposit; penalty.

Civ. '02, § 2830.

Sec. 3598. No process depending in any Court shall be discontinued for or by reason of the failure to hold the Court upon the day appointed by law; but in such case, all suits, process, matters and things depending shall be made to the next succeeding Court in course in the same manner as if such succeeding Court had been the same Court to which such process stood continued. or such returns or appearances should have been made; and recognizances, bonds and obligations for appearances, and all returns shall be of the same force and validity for the appearance of any person or persons at such succeeding Court, and all summonses for witnesses as effectual as if the succeeding Court had been expressly mentioned therein; and all causes depending on the docket, and undetermined at any adjournment to the Court in course, shall stand continued in the same order to such Court as fully as if such causes were called over and continued by order of Court.

Effect on writs, &c., of failure of Court to sit as required by law.

Civ. '02, § 2831.

Sec. 3599. Transcripts of judgments and decrees rendered in the Circuit and District Courts of the United States within this State may be filed and docketed in the offices of the Clerks of the Courts of Common Pleas in the several Counties of this State, for the purpose of creating

Transcripts of decrees and judgments of United States Courts filed in office of Clerk of Court.

Civ. '02, § 2832.

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A lien.
Limitation.

A. A. Con-
gress 1888.

Duty of Clerk
of Court.

Money may
be deposited
with officers of
Courts in lieu
of bond.

To whom it
must be paid.

Civ. '02, §
2834.

liens of such judgments and decrees upon property within the County where the same may be so filed and docketed. in like manner as the judgments and decrees of said Courts of Common Pleas and transcripts thereof may be entered, filed and docketed for the purpose of creating liens upon property, but in no other manner and to no greater extent, as contemplated, provided and intended by the Act of Congress entitled "An Act to regulate the liens of judgments and decrees of the Courts of the United States," approved August 1, 1888. And it shall be the duty of the Clerks of the said Courts of Common Pleas, when transcripts of judgments or decrees of said Circuit or District Courts shall be filed with them, to docket and index the same as judgments of the said Courts of Common Pleas are required to be docketed and indexed.

Sec. 3600. Whenever in any civil or criminal proceedings in any of the Courts of this State a bond, recognizance or undertaking is authorized or required to be given, it shall and may be lawful for the party or parties authorized or required to give the same to deposit in lieu thereof a sum of money, in lawful money of the United States of America, equal in amount to the bond, recognizance or undertaking so required or authorized to be given; and such sum of money, when deposited as in this Section provided, shall be held and taken as equivalent in all respects to the giving of such bond, recognizance or undertaking.

Sec. 3601. Whenever such bond, recognizance or undertaking is required or authorized to be given in any civil or criminal proceedings in the Courts of Common Pleas or General Sessions of this State, the said sum of money deposited in lieu thereof shall be paid to the Clerk of the Court of Common Pleas and General Sessions in which said proceeding is pending; and whenever such bond, recognizance or undertaking is authorized or required to be given in the Supreme Court of this State, the said sum of money shall be paid to the Clerk of the Supreme Court; and whenever such bond, recognizance or undertaking is authorized or required to be given in any civil proceeding in the Probate Courts of this State, the said sum of money shall be

A. D. 1912,

paid to the Judge of the Court of Probate for the County in which the said proceeding is pending; and whenever such bond, recognizance or undertaking is authorized or required to be given in any civil or criminal proceeding in a Magistrate's Court or other Court of inferior jurisdiction, such sum of money shall be paid to the Clerk of the Court of Common Pleas and General Sessions for the County in which such Magistrate's Court or other Court of inferior jurisdiction shall be.

Sec. 3602. Whenever any sum of money is so deposited in lieu of a bond, recognizance or undertaking, the party depositing the same shall be entitled to a receipt therefor, stating that the same has been deposited, and is held for the same purpose as would have been specified and conditioned in the bond, recognizance or undertaking in lieu whereof the said sum of money is so deposited.

Receipt for.
Civ. '02, §
2835.

The party or parties so depositing a sum of money in lieu of a bond, recognizance or undertaking shall be entitled upon application to the respective Courts wherein such deposits have been made, and subject to the order of which such funds are held, to receive back the same whenever the purposes for which the same have been received and deposited have been accomplished and the parties are entitled to repayment thereof.

When to be
paid back.

Sec. 3603. In cases where a minor becomes entitled to a sum of money not exceeding one hundred dollars in the settlement of estates, or under the judgment, order or decree of any Court, and such minor has no general or testamentary guardian to whom such sum may be paid, and whose estate, however derived, is, in the judgment of the Court in which the settlement is made, or the judgment, order or decree is rendered, too small to warrant the expense of the appointment of a guardian, it shall and may be lawful for such Court, or the Judge thereof, to make an order for the same to be paid to the minor, or the father or mother of such minor, or if the father and mother be dead, to some other person for the benefit of such minor as to such Court or Judge may seem best.

Courts may
order pay-
ment of
money to mi-
nors, etc.
Civ. '02, §
2836. 1910,
XXVI, 683.

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Time pre-
scribed within
which Masters
and Referees
must file re-
ports.

Civ. '02, §
2837.

Penalty.
Extension of
time.

Sec. 3604. In all cases referred to Masters and Referees by the Courts of Common Pleas, as now provided by law. the Masters or Referees shall make and file with the Clerks of the Courts of Common Pleas of their respective Counties their reports within sixty days from the time the action shall be finally submitted to them, and in default thereof they shall not be entitled to any fees: *Provided*, That nothing herein contained shall prevent parties to said action or their attorneys from extending the time by mutual consent in writing.

ARTICLE II.

CERTAIN RIGHTS AND REMEDIES.

- SEC.
- 3605. Imputing want of chastity to a female actionable.
 - 3606. Payment by surety not to discharge judgment against principal.
 - 3607. Payment by one surety not to discharge as to co-surety.
 - 3608. Joint debtor may make composition with creditor; release and effect of; partnership debt, &c.
 - 3609. Special entry of satisfaction of judgment as to joint debtor so compounding.
 - 3610. Rights of the other joint debtors.
 - 3611. Liability of Counties, &c., for damages from lynchings.

- SEC.
- 3612. Trusts and combinations declared against public policy.
 - 3613. Penalties for.
 - 3614. Liability for damages from: testimony in actions for, &c.
 - 3615. Rights employes of street railways.
 - 3616. Street cars to have vestibules.
 - 3617. Certain street cars to have enclosed vestibules.
 - 3618. "Street Railway" and "Interurban Railway" defined.
 - 3619. Interurban railways to have vestibules.
 - 3620. Right of parties to settle contentions by arbitration.

Imputing
want of chas-
tity — dam-
ages.

Civ. '02, §
2838.

Section 3605. If any person shall utter and publish, either by writing or verbally, any words of and concerning any female, imputing to her a want of chastity, the said person so uttering and publishing said words, shall and may be liable for damages in a civil action brought by the said female of whom said words may be uttered and published, without proving any special damage; subject, nevertheless, to the rules of evidence at common law.

Payment by
surety not to
discharge
judgment
against prin-
cipal.

Civ. '02, §
2839.

Sec. 3606. The payment by a surety of a debt secured by judgment or decree shall not operate as a satisfaction of such judgment or decree against the principal debtor, but by such payment the said surety shall be entitled to all the

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rights and privileges of the plaintiff in such judgment or decree.

McIntosh v. Wright, Rich. Eq. Ca., 385; Thomson v. Palmer, 2 Rich. Eq., 32; King v. Aughtry, 3 Strob. Eq., 149; Thomson v. Palmer, 3 Rich. Eq., 139; Garvin v. Garvin, 31 S. C., 581; 10 S. E., 507. Surety embraces endorser.—Wilson v. Wright, 7 Rich., 399; Patterson v. Baxley, 33 S. C., 354; 11 S. E., 1065. Applies where there is judgment against principal and none against surety—Kinard v. Baird, 20 S. C., 377. And if satisfaction has been entered, the surety may have it set aside.—Perkins v. Kershaw, 1 Hill Ch., 344.

Sec. 3607. In case any surety in such judgment or decree shall pay the same, such payment shall not operate as a satisfaction of such judgment or decree as against the co-surety or sureties thereto, but such surety shall have the right to enforce the execution on such judgment or decree against his co-surety or sureties or for contribution.

Payment by one surety not to discharge as to co-surety.

Civ. '02, § 2840.

Sec. 3608. Any joint debtor may make a separate composition with his creditor as prescribed in this Section. Such composition shall discharge the debtor making it, and him only. The creditor must execute to the compounding debtor a release of the indebtedness or other instrument exonerating him therefrom. A member of a partnership cannot thus compound for a partnership debt until the partnership has been dissolved by mutual consent or otherwise. In that case the instrument must release or exonerate him from all liability incurred by reason of his connection with the partnership. An instrument specified in this Section shall not impair the creditor's right of action against any other joint debtor or his right to take any other proceeding against the latter unless an intent to release or exonerate him appears affirmatively upon the face thereof.

How joint debtor may make a separate composition of indebtedness.

Civ. '02, § 2841.

Joint debtors.—Symmes v. Cauble, 72 S. C., 330; 51 S. E., 862.

Sec. 3609. An instrument specified in the last Section shall be deemed a satisfaction piece for the purpose of satisfying any judgment recovered upon an indebtedness released or discharged thereby as far as the judgment affects the compounding debtor. When a judgment is satisfied hereby a special entry must be made upon the judgment roll to the effect that the judgment is satisfied as to the compounding debtor only.

How judgments recovered may be satisfied.

Civ. '02, § 2842.

Sec. 3610. When a joint debtor has thus compounded, a joint debtor who has not compounded may make any defense or counter claim or have any other relief as against the

A. D. 1912.

Rights of a
joint debtor
who has not
compounded.

Civ. '02, §
2848.

creditor to which he would have been entitled if the composition had not been made. He may require the compounding debtor to contribute his ratable proportion of the joint debt or of the partnership debts, as the case may be, as if the latter had not been discharged. And the debtor who has not compounded with his creditor may set up by way of discount against such creditor the amount compounded by his joint debtor.

When County
liable for
damages.

Civ. '02, §
2844.

Sec. 3611. In all cases of lynching when death ensues the County where such lynching takes place shall, without regard to the conduct of the officers, be liable in exemplary damages of not less than two thousand dollars, to be recovered by action instituted in any Court of competent jurisdiction by the legal representatives of the person lynched, and they are hereby authorized to institute such action for the recovery of such exemplary damages. A County against which a judgment has been obtained for damages in any case of lynching shall have the right to recover the amount of said judgment from the parties engaged in said lynching in any Court of competent jurisdiction, and is hereby authorized to institute such action.

May recover
from guilty
parties.

Liability exists whether party lynched was a prisoner or not.—Brown v. Orangeburg Co., 55 S. C., 45; 32 S. E., 764.

Trusts and
combinations
declared
against public
policy.

Civ. '02, §
2845.

Sec. 3612. All arrangements, contracts, agreements, trusts or combinations between two or more persons as individuals, firms or corporations, made with a view to lessen, or which tends to lessen, full and free competition in the importation or sale of articles imported into this State, or in the manufacture or sale of articles of domestic growth or of domestic raw material, and all arrangements, contracts, agreements, trusts or combinations between persons or corporations designed or which tend to advance, reduce or control the price or the cost to the producer or to the consumer of any such product or article, and all arrangements, contracts, trusts, syndicates, associations or combinations between two or more persons as individuals, firms, corporations, syndicates or associations, that may lessen or affect in any manner the full and free competition in any tariff, rates, tolls, premium or prices, or seeks to control in any way or manner such tariffs, rates, tolls, premiums or prices in any

A. D. 1912,

branch of trade, business or commerce, are hereby declared to be against public policy, unlawful and void.

Constitutional; complaint under.—State v. Chem. Co., 71 S. C., 544; 51 S. E., 455. Contracts giving sole right to sell goods in designated territory not illegal. Statute construed.—Mowing Co. v. Hardware Co., 75 S. C., 378; 55 S. E., 973. Contract void as against.—Packard & Fields v. Byrd, 78 S. C., 1; 51 S. E., 678.

Sec. 3613. Whenever complaint is made upon sufficient affidavit or affidavits showing a *prima facie* case of violation of the provisions of Section 3612 by any corporation, domestic or foreign, it shall be the duty of the Attorney-General to begin an action against such domestic corporation to forfeit its charter; and for the purpose of such forfeiture he shall apply to any Court of competent jurisdiction for an order restraining such offending corporation, and in cases where in his discretion it is necessary, for the immediate appointment of a receiver for such offending corporation where such forfeiture affects a creditor or creditors of such offending company; and in case such violation shall be established the Court shall adjudge the charter of such corporation to be forfeited, and such corporation shall be dissolved, and its charter shall cease and determine; and in the case of such showing as to a foreign corporation an action shall be begun by the Attorney-General in said Court against such corporation to determine the truth of such charge; and in case such charge shall be considered established, the effect of the judgment of the Court shall be to deny to such corporation the recognition of its corporate existence in any Court of law or equity in this State. But nothing in this section shall be construed to affect any right of action then existing against such corporation.

Charter of corporation violating this Act to be forfeited; how.
Civ. '02, § 2846.

See Sec. 212 Criminal Code for punishment for violation of Sec. 3612.

Sec. 3614. Any person or persons or corporations that may be injured or damaged by any such arrangement, contract, agreement, trust or combination described in Section 3612 may sue for and recover, in any Court of competent jurisdiction in this State, of any person, persons or corporation operating such trust or combination, the full consideration or sum paid by him or them for any goods, wares, merchandise or articles the sale of which is controlled by such combination or trust.

Injured party may recover damages.
Civ. '02, § 2847.

A. D. 1912.

All persons
compelled to
testify.

Any and all persons may be compelled to testify in any action or prosecution under Sections 3612 to 3614 inclusive: *Provided*, That such testimony shall not be used in any other action or prosecution against such witness or witnesses, and such witness or witnesses shall forever be exempt from any prosecution for the act or acts concerning which he or they testify.

Fellow serv-
ants, employes
street rail-
ways.Civ. '02.
2848.

Sec. 3615. Every employee of any street railway doing business in this State shall have the same rights and remedies for an injury suffered by any person from the acts of omission of said corporation, or its employees, as are provided by the Constitution for employees of Railroad Corporations.

See Constitution, Art. IX., Sec. 15.

Street cars
to have ves-
tibules affix-
ed.1902, XXIII,
1057. 1904,
XXIV, 423.

Sec. 3616. Electric street railway companies shall affix to their cars or coaches suitable vestibules for the protection of the motormen during the months of December, January, February and March. Any corporation running and operating electric street railway cars or coaches who fails to comply with the provisions of this Section, shall be subject to a penalty of ten dollars per day, to be recovered by any citizen in the city or town where such corporation does business, for the benefit of the State.

Certain
street rail-
way compa-
nies to affix
enclosed ves-
tibules to cars
in certain
months.1909, XXVI,
120. 1910,
XXVI, 505.

Sec. 3617. Electric railway companies shall affix to their cars or coaches enclosed vestibules, of wood, iron or glass for the protection of motormen and passengers during the months of December, January, February and March: *Provided*, That the failure of any such company to comply with the provisions of this Section shall be subject to a penalty of ten dollars per day, to be recovered by any citizen in the city or town where such company does business, one-fourth ($\frac{1}{4}$) thereof to go to the person bringing the suit to enforce the law, and the remaining three-fourths ($\frac{3}{4}$) for the benefit of the State: *Provided*, That the same shall not apply to any car or cars operated south of a line ten miles north of and parallel to the thirty-fourth meridian.

All electric street railway companies subject to the provisions of the terms of this Section shall have attached to its cars or coaches good and sufficient fenders, and, failing to do so, shall be subject to the same penalty as provided in the first paragraph of this Section.

Sec. 3618. In the construction of this Section and Section 3619 the phrases "Street Railroad" or "Street Railway" shall be construed to include all railroads and railways operated by electricity, whose main business consists in the transportation of passengers between different points within the limits of a municipality; and the phrases, "Interurban Railroad" or "Interurban Railway" shall be construed to include all railroads and railways operated by electricity whose main business consists in the transportation of passengers from one municipality to another.

A. D. 1912,
"Street
Railway"
and "Interur-
ban Railway"
defined.
1910, XXVI,
761.

Sec. 3619. All interurban railways operating in this State shall affix to their cars or coaches, enclosed vestibules of wood, iron or glass for the protection of motormen and passengers during the months of November, December, January, February and March: *Provided*, That the failure of any such company to comply with the provisions of this article from and after the 1st day of November, A. D. 1910, shall be subject to a penalty of ten dollars per day, for each car, to be recovered by any citizen of any County in which such company does business, one-fourth thereof to go to the person bringing the suit, to enforce the law, and the remaining three-fourths for the benefit of the County.

Interurban
railways to
have vesti-
bules.
Id.

Penalty.

Sec. 3620. It shall be lawful for any and all persons, in cases of disagreement or difference of opinion as to the proper settlement of any contention that may hereafter arise and either party to the contention may, propose to leave their differences to arbitration, each party to enter into and in double the amount involved to faithfully abide the result of arbitration. The arbitrators shall be selected in the following manner: One discreet person to be selected by each party to the contention, and the two to select a third party who shall not be connected with either of the principals by blood or otherwise; the three shall proceed to organize by electing a chairman from their number, and take the following oath, to wit: I do solemnly swear that I will duly consider all the evidence adduced by the several parties to this contention, and I will render a true verdict and findings according to law and the evidence.

Arbitrations
how to be con-
ducted.
Civ. '02, §
2849.

The finding of said Board of arbitration shall be final: *Provided*, That either party to the contentions shall have the right of appeal to the Circuit Court by serving written

Appeals pro-
vided for.

A. D. 1912.

notice upon the opposite party within five days after the finding of said arbitration, setting forth the grounds of said appeal. And on such appeal the Circuit Judge presiding in said Court shall hear said appeal as to all questions of law and fact without the intervention of a jury. If no such notice be given within five days after said finding, then the award of arbitration shall be final.

Awards, effect of.

The award of the arbitration shall be filed with the Clerk of Common Pleas within five days after such finding and when so filed shall become a judgment of the Code of Common Pleas for such County.

Powers of arbitrators, &c.

The said arbitrators appointed as aforesaid shall have power to subpoena witnesses and send for papers with the same powers and penalties as now apply to Magistrates Courts.

Where award will be set aside.—*Greenville v. Spartanburg*, 62 S. E., 165; 40 S. E., 147. The decision of the arbiter when reached in the exercise of his honest judgment is conclusive.—*Brooker v. Laurens Mill Co.*, 78 S. C. 200; 58 S. E., 806. Stipulation—effect of notice that only common law arbitration is intended.—*Bishop v. Valley Falls Mfg. Co.*, 78 S. C., 312; 58 S. E., 939.

TITLE II.
OF ACTIONS AND PROCEEDINGS THEREIN.

- CHAPTER XCIII. *Actions by and Against Executors and Administrators.*
CHAPTER XCIV. *Witnesses and Evidence.*
CHAPTER XCV. *Jurors and Juries.*

CHAPTER XCIII.

Actions by and Against Executors and Administrators.

SEC.	SEC.
3621. Certified copies of orders by Probate Judge, evidence of appointment of executors, &c.	3625. When action barred.
3622. Civil actions for wrongful acts, &c., causing death.	3626. Actions against trespassers.
3623. For whose benefit to be brought by executor, &c.; measure of damages; distribution of proceeds.	3627. Executions on judgments obtained by deceased executors, &c.
3624. Limitation; costs.	3628. Actions against, when one or more are out of the State.
	3629. When action against may be commenced.
	3630. Survival of right of action.

Section 3621. It shall be the duty of the Judge of Probate, on application by the executor or administrator of any deceased person, to whom letters testamentary or of administration have been respectively granted, to furnish a true copy of such order as he may make, concerning the probate of the will, or granting of administration, certified under his hand, which shall be sufficient evidence of the appointment of such executor or administrator in any Court in this State.

Papers, to be furnished executors, &c., to be evidence.

Civ. '02, § 2850.

Hankinson v. C., C. & A. Ry. Co., 41 S. C., 1; 19 S. E., 206.
Action by administrator for conversion of property after intestate's death.
Caughen v. Green & Hines, 80 S. C., 432; 61 S. E., 957.

A. D. 1912.

Civil actions
for wrongful
acts causing
death.Civ. '02, §
2851.

Sec. 3622. Whenever the death of a person shall be caused by the wrongful act, neglect, or default of another, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then, and in every such case, the person or corporation who would have been liable, if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, although the death shall have been caused under such circumstances as make the killing in law a felony.

Action under the North Carolina Statutes.—*Dennis v. A. C. L. R. R.*, 73 S. C., 254; 49 S. E., 869; *Free v. Southern Ry. Co.*, 78 S. C., 57; 58 S. E. 952. Action in South Carolina under Georgia Statute.—*Bussey v. Ry.*, 73 S. C., 215; 53 S. E., 165. Action does not abate on death of sole beneficiary at time of its commencement.—*Morris v. Spartanburg Ry. Co.*, 70 S. C., 579; 49 S. E., 854.

Brickman v. So. Ry., 74 S. C., 306; 54 S. E., 553.

Provision for punitive damages constitutional.—*Hull v. S. A. L. Ry.*, 73 S. C., 278; 57 S. E., 28; *Osteen v. So. Ry.*, 76 S. C., 368; 57 S. E., 196.

For whose
benefit action
to be brought;
damages re-
coverable;
how distribut-
ed.

1902, XXIII,
1071.

Sec. 3623. Every such action shall be for the benefit of the wife or husband and child, or children, of the person whose death shall have been so caused; and if there be no such wife, or husband, or child, or children, then for the benefit of the parent or parents; and if there be none such, then for the benefit of the heirs at law or the distributees of the person whose death shall have been caused and shall be brought by or in the name of the executor or administrator of such person; and in every such action the jury may give such damages, including exemplary damages where such wrongful act, neglect or default was the result of recklessness, wilfulness or malice, as they may think proportioned to the injury resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought. And the amount so recovered shall be divided among the beforementioned parties, in such shares as they would have been entitled to if the deceased had died intestate and the amount recovered had been personal assets of his or her estate.

This gives a new statutory action which is an asset, only enforceable by the administrator or executor of deceased, and sufficient to support grant of administration.—*In re Mayor's Estate*, 60 S. C., 401; 38 S. E., 634; *Edgar v. Castello*, 14 S. C., 20; *Davis v. R. R.*, 21 S. C., 93. And he has precisely the same right to recover as the deceased would have if living and suing for dam-

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ages for injury.—Hooper v. R. R., 21 S. C., 541; Price v. R. R., 33 S. C., 556; 12 S. E., 413. And release by person injured will debar such action.—Price v. R. R., 33 S. C., 556; 12 S. E., 413. Such action lies for benefit of adult children of deceased.—Petrie v. R. R., 29 S. C., 303; 7 S. E., 515. The complaint must state who are said beneficiaries and that the action is for their benefit.—Lilly v. R. R., 32 S. C., 142; 10 S. E., 932; Nohrden v. N. E. Ry. Co., 54 S. C., 492; 32 S. E., 524. The right is given irrespective of time deceased survived after the injury.—Reed v. N. E. Ry. Co., 37 S. C., 42; 16 S. E., 289. Circuit Judge may grant new trials on account of excessive verdicts as in other cases.—Stuckey v. A. C. L. Ry. Co., 57 S. C., 395; 35 S. E., 550. Evidence as to actual damages.—Youngblood v. S. C. & G. R. R. Co., 60 S. C., 9; 38 S. E., 232. Suffering of deceased not an element of.—Stuckey v. Atlantic Coast Line R. R. Co., 60 S. C., 237; 38 S. E., 416. What are.—Nohrden v. N. E. Ry. Co., 59 S. C., 87; 37 S. E., 228. Pecuniary loss need not be shown.—Mason v. So. Ry. Co., 58 S. C., 70; 36 S. E., 440; Strother v. S. C. & G. R. R. Co., 47 S. C., 375; 25 S. E., 272. Exemplary damages were not recoverable prior to the amendment of 1901.—Garrick v. Ry. Co., 53 S. C., 575; 31 S. E., 334; Nohrden v. Ry. Co., 54 S. C., 492; 32 S. E., 524. It does not give right to sue County after death of party injured through defective bridge.—All v. Barnwell Co., 29 S. C., 161; 7 S. E., 58.

The word "of" in Act of 1898 construed "or;" heir and distributee synonymous.—Kitchen v. R. R., 68 S. C., 554; 48 S. E., 4.

Does not include relatives of illegitimate.—McDonald v. So. Ry., 71 S. C., 552; 51 S. E., 138.

Croft v. So. Cotton Oil Mills. 83 S. C., 282; 65 S. E., 216.

Action did not abate because of death of father, sole beneficiary when commenced.—Morris v. Spartanburg Ry. Co., 70 S. C., 279; 49 S. E., 834.

Father and mother share equally where there are no children.—Childs v. Bolton, 69 S. C., 555; 48 S. E., 618.

Amendment permitted striking out names of two parties named in complaint as beneficiaries.—McDaniel v. A. C. L. Ry., 76 S. C., 189; 56 S. E., 543.

While not essential to the cause of action, pecuniary loss is an element of damages, and where there is no proof as to such loss its absence may be commented on.—Barksdale v. S. A. L. Ry., 76 S. C., 183; 56 S. E., 906; Trimmer v. A. C. L. Ry. Co., 81 S. C., 213; 62 S. E., 209.

Measure of damages.—Osteen v. Ry., 76 S. C., 368; 57 S. E., 196; Brickman v. Ry., 74 S. C., 306; 54 S. E., 558.

Action by administrator under foreign Statute, (Ga.)—Bussey v. Ry., 73 S. C., 215; 53 S. E., 165.

Sec. 3624. All such actions must be brought within six years from the death of such person, and the executor or administrator, plaintiff in the action, shall be liable to costs in case there be a verdict for the defendant, or nonsuit or discontinuance, out of the goods, chattels and lands of the testator or intestate, if any.

Time within which action must be brought.

1902, XXIII, 96.

Not a Statute of Limitation, but a condition precedent.—Dennis v. A. C. L. Ry., 70 S. C., 254; 49 S. E., 869.

Sec. 3625. The provisions of the three preceding Sections of this Chapter shall not apply to any case where the person injured has, for such injury, brought action, which has proceeded to trial and final judgment before his or her death.

When action is barred.

Civ. '02, § 2854.

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Price v. Ry. Co., 33 S. C., 556; 12 S. E., 413.

A ctions
against tres-
passers.

Civ. '02, §
2855.

Sec. 3626. Executors in cases of trespass done to their testators, as of the goods and chattels of the same testators carried away in their life, shall have an action against the trespassers, and recover their damages in like manner as they, whose executors they are, should have had if they were in life.

Middleton v. Robertson, 1 Bay, 58; Huff v. Watkins, 20 S. C., 477.

Executions
on judgments
obtained by
deceased exe-
cutors, &c.

Civ. '02, §
2856.

Sec. 3627. Where any judgment after a verdict shall be had by or in the name of any executor or administrator, an administrator *de bonis non* may take out execution upon such judgment.

A ctions
against execu-
tors when one
or more are
out of the
State.

Civ. '02, §
2857.

Sec. 3628. In cases where there are two or more executors or administrators to any estate, and any one or more of them has withdrawn, or shall withdraw, or reside out of the State, it shall and may be lawful for any creditor or person having right or cause of action against such estate to commence his action against all the executors or administrators, naming and setting forth therein the executor or administrator, one or more, who is or are out of the State; and the summons being served in the usual form upon those who are within the State, the suit shall be deemed to be good and effectual in law, to all intents and purposes; saving only that the judgment in such cases shall not extend to work any *devastavit* upon the person or persons so absent, or to affect him, her or them in their private right.

When actions
may be com-
menced.

Civ. '02, §
2858.

Sec. 3629. No action shall be commenced against any executor or administrator for the recovery of the debts due by the testator or intestate, until twelve months after such testator or intestate's death.

Judgment sustained where rendered after the twelve months though suit was commenced within that period.—Hendrix v. Holden, 58 S. C., 495; 36 S. E., 1010. Such time must be added to the time fixed by the Statute of Limitations for bringing such action.—Moses v. Richard, 2 N. & McC., 259; Nicks v. Martindale, Harp., 136; McCullough v. Speed, 3 McC., 345; Wills v. Robinson, 3 Rich., 182; Lawton v. Bowman, 2 Strob., 190; Moore v. Smith, 29 S. C., 254; 7 S. E., 485. Does not apply to executors *de son tort*.—Chambers v. Davidson, 1 Hill, 50. Applies to action in equity against heirs or devisees.—Cleveland v. Mills, 9 S. C., 430. Does not apply to actions commenced in lifetime and continued against the personal representative.—Quick v. Campbell, 44 S. C., 386; 22 S. E., 479.

Does not affect actions for foreclosure where no judgment for deficiency is sought against the executor or administrator.—Green v. McCarter, 64 S. C., 290; 42 S. E., 157. Effect on limitation of action.—Gaston v. Gaston, 50 S. C., 157; 61 S. E., 393.

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Sec. 3630. Causes of action for and in respect to any and all injuries and trespasses to and upon real estate and any and all injuries to the person or to personal property, shall survive both to and against the personal or real representative (as the case may be) of deceased persons, and the legal representatives of insolvent persons, and defunct or insolvent corporations, any law or rule to the contrary notwithstanding.

Survival of
right of ac-
tion.
1905, XXIV,
945.

Applied.—Allen v. Union Oil and M'fg Co., 59 S. C., 571; 38 S. E., 274.
Cause of action for trespass on realty survives.—Dukes v. Postal Tel. Co., 71 S. C., 95; 50 S. E., 675. Does not apply to trespass committed prior to its enactment.—Sims v. Davis, 70 S. C., 362; 49 S. E., 872. Question whether action has abated is for the Common Pleas.—*Ex parte* Conrad, 75 S. C., 1; 54 S. E., 799. Not retroactive.—Lorick v. Palmetto National Bank, 76 S. C., 600; 57 S. E., 527. Whether right of action for trespass on real estate survives to the personal or real representative should be made by demurrer.—Boyles v. Postal Tel. Co., 78 S. C., 430; 50 S. E., 68.

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CHAPTER XCIV.

Witnesses and Evidence.

ARTICLE 1. Attendance of Witnesses.

ARTICLE 2. Examination of Witnesses by Commission.

ARTICLE 3. Examination of Witnesses before Clerk and
Depositions *de bene esse*.

ARTICLE 4. General Provisions Respecting Evidence.

ARTICLE I.

ATTENDANCE OF WITNESSES.

SEC.

3631. Allowance of charge for witnesses, &c.

3632. Clerks of Courts to subpoena witnesses.

3633. How subpoenaed when living in another County.

3634. Pay of witnesses in civil cases; to be paid by party summoning.

SEC.

3635. Pay of, in Magistrate's Court.

3636. Penalty for default of attendance.

3637. Penalty for refusing to testify.

3638. Prisoners; how to be brought into Court as witnesses.

Allowance of charge for witnesses, &c.

Section 3631. In any bill of costs there shall not be allowed the charge of more than three witnesses to the proof of any one particular matter of fact.

Civ. '02, § 2860.

Judicial notice taken of general custom.—*Fleischman, Morris & Co. v. So Ry. Co.*, 76 S. C., 237; 56 S. E., 974.

Clerks of Courts to subpoena witnesses; what to be expressed in subpoena.

Sec. 3632. The Clerk of every Circuit Court shall, upon the request of either party, issue one or more subpoenas or subpoenas for any person or persons to attend as witnesses in any cause or matter depending in the same, expressing in every subpoena the time and place where the witnesses are to appear, the names of the parties to the suit or cause wherein they are to give evidence, and at whose request they are summoned.

Civ. '02, § 2861.

Defendant entitled to subpoena a witness to testify on sentence day to extenuating circumstances.—*State v. Smith*, 2 Bay, 62. A witness under subpoena *duces tecum*, not required to testify.—*Treasurer v. Moore*, 3 Brev. 550; *Sherman v. Barrett*, 1 McM., 147.

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Subpœna essential to taxation of fees.—Atherton v. A. C. L. R. R. Co., 82 S. C., 474; 64 S. E., 411.

Sec. 3633. If any witness shall be an inhabitant of another County, the Clerk shall issue a subpœna directed to the Sheriff of such County where such witness usually resides, which shall be by such officer executed and returned to the office whence the same issued.

How subpœnaed when living in another County.
Civ. '02, § 2862.

Sec. 3634. Every person summoned to appear as a witness, in the Common Pleas or Probate Courts, shall be paid, by the person or persons at whose suit the summons issued, one dollar for every day's attendance on such summons, and, also, the sum of five cents per mile for coming to Court, and the same for returning, to be computed by the shortest practical route to be traveled over any regular established highway, besides ferriages, to be paid by the party summoning such witness, which said allowances shall be ordered by the Court, upon motion, and a copy thereof issued and tested by the Clerk, at any time, upon request.

Pay of witnesses in civil cases; to be paid by party summoning.
Civ. '02, § 2863.

Witness subpœnaed by successful party has no right of action against the other for costs.—Clement v. Bagley, 2 McC., 244. They are taxed to the successful party.—Sims v. Anderson, 1 Hill, 394; Kirkley v. Nolly, 1 Hill, 398; Johnson v. Wideman, Chev., 26. Subpœna and affidavit of attendance by witness required to have his costs taxed.—Clark v. Linsser, 1 Ball., 187. But Notary's certificate of such attendance is sufficient.—Winsmith v. Dewberry, 14 S. C., 554. Now, it seems that a witness who attends voluntarily and without subpœna is entitled to his fees.—Lewis v. Brown, 16 S. C., 58. Witness interested in suit cannot have his costs taxed.—Rice v. Palmer, 2 Ball., 117. Nor when not sworn, although subpœnaed, unless material or believed to be so.—Taylor v. McMahan, 2 Ball., 131; Farr v. Farr, 2 Hill, 554; Bogan v. White, Dud., 316; Love v. Ingram, 2 Speer, 74. Witnesses subpœnaed for defendant in criminal case not entitled to costs.—Little v. Fodd, 3 Rich., 91. As to mileage.—Speigener v. Cooner, 9 Rich., 120.

Taxing witness fees as disbursements.—Mitchell v. Barrs, 64 S. C., 197; 11 S. E., 962; Atherton v. A. C. L. R. R., 82 S. C., 474; 64 S. E., 411.

Sec. 3635. Witnesses summoned to testify in civil causes in Magistrate's Courts shall receive fifty cents per day for each day's attendance, and the same mileage as is allowed in the Circuit Courts.

Pay of, in Magistrate's Courts.
Civ. '02, § 2864.

Sec. 3636. If any person summoned as aforesaid, or summoned to attend before commissioners appointed to take his or her examination and deposition, shall fail to attend accordingly, he or she so failing shall be fined by the Court for a contempt, and shall be liable to the action of such party at the common law for all damages sustained for want of such witness's testimony; but if the person so failing to

Person summoned, and failing to attend, to be fined for contempt and liable for damages sustained for want of testimony.
Civ. '02, § 2865.

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attend shall, at the Court to which the summons is returnable, or at the next succeeding Court show cause satisfactory to the Court of his or her disability to attend at the time he or she ought to have appeared, then no fine or forfeiture shall be incurred by such failure.

Punishment for contempt after termination of case.—*Johnson v. Wildman* Dud., 70.

Penalty for
not answering.

Civ. '02, §
2866.

Sec. 3637. If any person summoned as a witness, upon his or her appearance before the Court, or before commissioners appointed to take his or her examination and deposition, or other officer authorized by law, shall refuse to give evidence, or answer to the interrogatories and cross-interrogatories, or any of them, annexed to the commission, on oath, affirmation, or otherwise, (as the case may be,) to the best of his or her knowledge, every person so refusing shall be committed to the common jail, there to remain until he or she shall give such evidence.

Prisoners—
how to be
brought into
Court as wit-
nesses.

Civ. '02, §
2867.

Sec. 3638. Whenever it shall be necessary to bring any prisoner into Court as a witness in any case, it shall be lawful for the presiding Judge to order such prisoner to be brought into Court, without the necessity of a writ of *habeas corpus*; and when the said prisoner shall have given his evidence, to cause him to be remanded to the custody of the officer to whose keeping he shall have been originally committed.

ARTICLE II.

EXAMINATION OF WITNESSES BY COMMISSION.

SEC.

3639. Judge or Clerk may grant commission; in what cases.

3640. Notice of application, when and on whom to be served; affidavit.

3641. When personal attendance of the witness at trial may be compelled, and how.

3642. Officers of State Hospital for the Insane may be examined by commission, &c.

3643. Subpoena for witnesses to be issued.

3644. When to be served; fees of witnesses; how and when to be paid.

SEC.

3645. Attachment for contempt against defaulting witnesses; proceedings for.

3646. Subpoenas to witnesses on commissions from other States; by what authority issued.

3647. Time of service; fees of witnesses; penalties and proceedings same as in cases pending in State.

3648. Witnesses unable to leave home by reason of age, &c. to be attended by Commissioners; their liability in certain case.

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Section 3639. Any Judge or Clerk of the Circuit Court shall have power and authority, on the application of any party to a suit pending in the Court of Common Pleas for his County, which application may be made to him by the party, either in person or by agent or attorney, to grant commissions, under the seal of the Court, directed to three or more commissioners, authorizing and empowering them, or any two of them, to take the depositions, in writing, of the witness or witnesses therein mentioned, resident without the limits of the State or County where the trial is to be had, or that reside at a greater distance than one hundred miles from the Court where said action is instituted, or may be about to remove without the limits of the State before the sitting of the next Court, or before the suit will stand ready for trial, or whose presence cannot be procured by reason of indispensable attendance on some public official duty, or professional duty as an attorney at such time, or of such sickness or infirmity as incapacitates such witness or witnesses from traveling in order to appear and testify, touching such matters as they may have in charge by such commission.

Judges and Clerks may grant commissions to examine witnesses in certain cases; ten days' notice of application to be served on opposite party; other provisos.

Civ. '02, § 2868.

The attorney of the party can apply for commission.—*Brooks v. Brooks*, 16 S. C., 621. And commission may be issued by Depty Clerk.—*Ib.* Signature of Clerk by Deputy.—*Miller v. George*, 30 S. C., 526; 9 S. E., 659. The depositions may be taken in a foreign language.—*Kuthman v. Brown*, 4 Rich., 179. They cannot include statement of witness made by refreshing his memory from paper not sent with commission nor referred to in interrogatories.—*Floyd v. Mintsey*, 7 Rich., 181. Interrogatories may be first objected to at trial.—*McBride v. Ellis*, 9 Rich., 269; *Bridger v. R. R.*, 25 S. C., 24. Defendant about to leave State cannot have commission to examine himself.—*Stones v. Jones*, 4 McC., 254. It will not be granted for sickness or infirmity unless shown.—*Carloss v. Colclough*, 1 Brev., 462. Waiver of objection that Commissioners were not sworn.—*Nobles v. Hogg*, 36 S. C., 322; 15 S. E., 359.

Sec. 3640. Ten days' notice of such application, with a copy of the interrogatories propounded, be served upon the opposite party or attorney, who shall have leave to resist such application, on cause shown: *Provided, also*, That such application be accompanied by an affidavit of the party applying declaring his or her belief of the materiality of any witness proposed to be so examined, together with the act which may entitle the party to such commission.

Notice to be given, &c.

Civ. '02, § 2869.

Clerk should not issue commission unless the service of the notice has been personally made or knowledge thereof ten days before has been shown.—*Gooday v. Corles, Strob.*, 199.

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How attendance of witnesses may be compelled.

Civ. '02, § 2870.

Sec. 3641. Either party to a cause in which a commission has been issued may, in the discretion of the Court, on motion, and upon showing that two days' notice thereof has been given to adverse party or attorney, be entitled to a rule to compel the personal attendance of any witness so examined, who may reside within the County, or not more than thirty miles from the Court House where the trial is to be had.

Testimony of officers of State Hospital for Insane may be taken by commission in civil causes.

Civ. '02, § 2871.

Sec. 3642. Whenever the testimony of any officer at the State Hospital for the Insane shall be required in a Court of justice, in a civil cause, the same may be taken by commission; nor shall his or her personal appearance be required, unless it shall be made to appear to the Court, by affidavit, that justice cannot be done without such personal presence in Court.

Where commission issues, subpoena for witnesses to be issued.

Civ. '02, § 2872.

Sec. 3643. Where a commission shall issue, by consent of parties or otherwise, out of any Court of judicature in this State, to examine any witness or witnesses residing within this State, touching any matter or thing depending in such Court, the said Court shall have power, and is hereby required, to issue a subpoena, in due and legal form, commanding such witness or witnesses to attend before the Commissioners named in the commission, at a certain time, and at some place not more than fifteen miles from the residence of such witness or witnesses, respectively, and answer on oath, according to their knowledge, to the interrogatories and cross-interrogatories annexed to the said commission.

Such subpoena to be served two days before attendance of witnesses is required; fees of witnesses.

Civ. '02, § 2873.

Sec. 3644. Such subpoena shall be served on the witness or witnesses personally, at least two days before the time at which attendance is required by it; and such witness or witnesses, so attending and giving evidence, shall be entitled to the same fees as witnesses in civil cases summoned before a Circuit Court for every day of necessary absence from home, and his or her necessary ferriages in going to and from and attending the said Commissioners, to be paid by the party obtaining the commission, or his or her agent, before it is delivered out of the hands of the Commissioners, who are hereby authorized and required to estimate the number of days for which payment is allowed as aforesaid, and to retain the commission till such payment be made.

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Fees to be taxed as costs.—Kirkly v. Nolly, 1 Hill, 398.

Sec. 3645. Nothing contained in this Chapter shall authorize Commissioners to attach or commit persons summoned as witnesses, but any of the Circuit Courts of this State, on such subpoena as is herein mentioned being produced, and satisfactory information made on oath that it was personally and in due time served on any witness therein named, who refused or neglected to attend, according to the command of the said subpoena, or, attending, refused to answer as aforesaid, shall have power, and is hereby required, to order an attachment against such witness, to appear and answer for such neglect or refusal, as for a contempt of the Court; which attachment shall be served and executed by the Sheriff of that Court where it was awarded, or his deputy, and shall run into any part of the State; and such other proceedings shall be had thereon as are usual and allowed in other cases of attachment for contempt.

How witnesses to be punished for contempt in not attending before commissioners.

Civ. '02, § 2874.

Sec. 3646. Where a commission shall issue out of any Court of judicature of the United States, or of another State, to examine any witness or witnesses residing in this State, touching any cause, matter, or thing depending in such Court, the person having obtained such commission, or his or her agent, shall produce it to a Judge of the Supreme or Circuit Courts of this State, who, on being satisfied of its authenticity and regularity, shall direct a subpoena to issue in due form from the Clerk's office of the nearest Circuit Court, in like manner as is provided by Section 3643 of this Chapter in cases where commissions are issued out of the Courts of this State.

Witnesses to attend and give evidence on commission from other States.

Civ. '02, § 2875.

Sec. 3647. Such subpoena shall be served within the same time, and such witness or witnesses, so attending and giving evidence, shall be entitled to the same compensation, to be assessed and secured in the same manner, and in case of neglect or refusal to attend or refusal to give evidence, shall be liable to the same actions, pains and penalties, and shall be proceeded against in the same manner, as is provided in Sections 3645 and 3648 of this Chapter for the case of witnesses to be examined in causes pending in this State.

To have same fees and be liable to same penalties as witnesses in cases pending in this State.

Civ. '02, § 2876.

Sec. 3648. Nothing contained in this Chapter shall be held to extend to persons unable to leave home by reason of age, infirmity, sickness, or bodily hurt, all of which persons,

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Persons unable to leave home, by reason of age, &c., to be attended by commissioners; liable for damages for injury received for want of their testimony.

Civ. '02, § 2877.

whenever it may be necessary to examine them by commission in causes depending either in this State or other States shall be attended by the Commissioners; and in case of their refusal to give evidence, or to answer to the interrogatories and cross-interrogatories under any such commission shall be liable to the action of the party who may be injured by the want of their testimony, and shall make reparation in damages for such injury.

Such witnesses can be examined only by commission.—Owens v. Foreman Ball. Eq., 165.

ARTICLE III.

EXAMINATION OF WITNESSES BEFORE CLERK AND DEPOSITIONS DE BENE ESSE.

Sec.

3649. Clerks of Court may take depositions; application and notice; examination; certificate, &c.

3650. Power of Clerk to compel attendance of witnesses.

3651. Clerk's fees.

3652. Depositions *de bene esse*, when testimony may be taken by; by whom; notice, when to be given and what to state, &c.

Sec.

3653. Testimony to be reduced to writing and subscribed by deponent.

3654. Duty of officer in respect to the delivery or transmission of deposition to Court when it shall not be used.

Clerks of Court may take depositions; rights of examination; deposition to be certified.

Civ. '02, § 2878.

Section 3649. The Clerks of the Courts of Common Pleas in this State, in all civil causes or proceedings at issue in the Courts of Common Pleas for their respective Counties, shall, upon the application of either party to such cause or proceeding, after ten days' notice to the adverse party, take in writing, the depositions of said party, or of any witness or witnesses in said cause or proceeding, whose examination shall be required by the party making such application. Upon taking which depositions, the several parties shall be entitled to the same rights of examination, cross-examination, and examination in reply, and the same exceptions to the admissibility of evidence, as are allowed by law upon examination before the Court. And the depositions so taken shall be certified by the Clerk before whom such examination was had, and may be read in evidence at the trial of

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the said cause or proceeding; subject, nevertheless, to the right of either party to require the personal attendance and *viva voce* examination of the witness or witnesses at the trial of said cause, or proceeding; the exercise of which right, however, not to cause a continuance or delay in the trial of the said cause or proceeding.

Testimony so taken before the action commenced is not admissible at trial, —Ivy v. Clawson, 14 S. C., 267. It may be required to be read at trial, although witness is present.—McLaurin v. Wilson, 16 S. C., 402. This Section does not limit power of Circuit Judge to order reference to take testimony.—McSween v. McCown, 21 S. C., 371.

Testimony taken *de bene esse* and used at first trial may be used by adverse party at subsequent trial.—Providence Machine Co. v. Browning, 70 S. C., 48; 49 S. E., 325.

Sec. 3650. Every Clerk of the Court of Common Pleas shall have power to compel the attendance before him of the witness or witnesses to be examined, as aforesaid, upon the application of a party to any civil cause or proceeding at issue in the said Court; for which purpose he may issue subpoena to any such witness, which shall be served personally; and if any witness, upon whom such subpoena has been duly served, shall fail to attend conformably thereto, the Clerk by whom the same was issued shall have power to issue a rule, requiring such witness to show cause why he should not be attached for contempt; and, upon the failure or neglect of such witness to show cause, the said Clerk shall have power to issue an attachment against such witness for contempt, which attachment shall not be dissolved, except by the order of a Judge, or of the said Clerk.

Power to compel attendance of witnesses; failure to attend; penalty for.

Civ. '02, § 2879.

Sec. 3651. Every Clerk of the Court of Common Pleas, for taking the depositions hereinbefore mentioned, shall be entitled to demand and receive the sum of one dollar for each witness examined, to be paid by the party against whom judgment shall be rendered in said cause or proceeding.

Fees of Clerk for examination of witnesses.

Civ. '02, § 2880.

Sec. 3652. In addition to the methods for taking testimony now provided by law the testimony of any witness may be taken in any civil action depending in the Court of Common Pleas for any County within this State by deposition *de bene esse*, where the witness lives without the County from which such cause is to be tried, or at a greater distance from the place of trial than one hundred miles, or is bound

When testimony may be taken by deposition *de bene esse* and by whom.

Civ. '02, § 2881.

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How may be
taken.

on a voyage to sea, or is about to go out of this State or out of the County in which the cause is to be tried, or to a greater distance than one hundred miles from the place of trial before the time of trial, or when he is aged or infirm. The deposition may be taken before any Circuit Judge of this State, or the Clerk of any of the Circuit Courts of this State, or any Magistrate or Notary Public of this State, or any Chancellor, Justice or Judge of a Supreme or Superior Court, Mayor or Chief Magistrate of a city, Magistrate, Judge of a County Court or Court of Common Pleas, or any of the United States or the Dominion of Canada or Kingdom of Great Britain, or any Notary Public not being of counsel or attorney to either of the parties interested in the event of the cause. Reasonable notice, not less than ten days, must first be given in writing by the party or his attorney proposing to take such deposition, to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition; and whenever, by reason of absence from the State and want of an attorney of record or other reason, the giving of the notice herein required shall be impracticable, it shall be lawful to take such depositions as there shall be urgent necessity for taking, upon such notice as any of the Circuit Judges of this State shall think reasonable and direct. Any person may be compelled to appear and depose as provided by this Section in the same manner as witnesses may be compelled to appear and testify in Court.

Requirements as to contents of notice.—*Wallingford v. W. U. Tel. Co.*, 5 S. C., 201; 38 S. E., 446; *Henderson v. Williams*, 57 S. C., 1; 35 S. E., 261. Appearance waives defect in notice.—*Sloan v. Hunter*, 56 S. C., 383; 34 S. E., 658. Permanent residents of another State can be so examined.—*Moore v. Willard*, 30 S. C., 615; 9 S. E., 273. Such depositions may be taken without interrogatories.—*Id.* Party has right at any stage of the case to call for such testimony of witness on behalf of other party.—*Petrie v. R. R.*, 27 S. C., 64; 2 S. E., 837. A witness being shown to be a non-resident when deposition was taken, is presumed to be such at time of trial in absence of testimony to the contrary.—*Kaughman v. Caughman*, 49 S. C., 159; 27 S. E., 16. Declarations against interest in testimony taken under this Section.—*McGahan v. Crawford*, 47 S. C., 566; 25 S. E., 123.

Where notice was given on the 13th and testimony taken on the 23rd was insufficient.—*Williams v. Halford*, 64 S. C., 396; 42 S. E., 187. See also *Id.*, 67 S. C., 306. Certificate of notary sufficient identification of witness.—*Sonneborn & Co. v. Ry.*, 65 S. C., 502; 44 S. E., 77. Certificate need not state it was written by witness or read over to him.—*Edgefield Mfg. Co. v. Casualty Co.*, 78 S. C., 73; 58 S. E., 965.

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May be typewritten.—*Stoddard v. Hill*, 38 S. C., 385; 17 S. E., 133; *Edgefield Mfg. Co. v. Casualty Co.*, 48 S. C., 73; 58 S. E., 965. Presumption is that officer typewrote the testimony himself; only required to read it over to witness when first taken down by stenographer and transcribed.—*John Slaughter Co. v. King Lumber Co.*, 79 S. C., 338; 60 S. E., 705. Certificate, where taken by stenographer.—79 S. C., 338. Notice not giving name of Notary sufficient.—*Battle v. Cape Fear Lumber Company*, 80 S. C., 273; 61 S. E., 441.

Sec. 3653. Every person deposing as provided in the preceding Sections shall be cautioned and sworn to testify to the whole truth and carefully examined. His testimony shall be reduced to writing by the officer taking the deposition, or by himself in the officer's presence, and by no other person, and shall, after it has been reduced to writing, be subscribed by the deponent: *Provided*, That this shall not be construed to prevent the use of stenographers for the purpose of taking such testimony, but the testimony so taken by such stenographers shall be reduced to writing or typewritten and read over to such witnesses.

Testimony to be reduced to writing.

Civ. '02, § 2882. 1902, XXIII, 1072.

John Slaughter Co. v. King Lumber Co., 79 S. C., 338; 60 S. E., 705.

Sec. 3654. Every deposition taken under the provisions of the two preceding Sections shall be retained by the officer taking it until he delivers it with his own hand into the Court for which it is taken, or it shall, together with a certificate of the reasons as aforesaid of taking it and of the notice, if any, given to the adverse party, be by such officer sealed up and directed to such Court, and forwarded to such Court either by mail or express, and remain under its seal until opened in Court. But unless it appears to the satisfaction of the Court that the witness is then dead or gone out of the County or State, or to a greater distance than one hundred miles from the place where the Court is sitting, or that, by reason of age, sickness, bodily infirmity or imprisonment, he is unable to travel and appear at Court, such deposition shall not be used in the cause.

Deposition to be retained by the Magistrate until delivered to the Court.

Civ. '02, § 2883.

When such deposition shall not be used.

Such testimony is not admissible, unless officer taking it certify the reasons for doing so.—*Featherstone v. Dagnell*, 29 S. C., 45; 6 S. E., 897. Nor unless stated reasons of inability of witness to attend Court appear to the Court. *Id.* Where depositions in due form are signed with the name and signature of the officer, and sealed, and are received by the Clerk of the Court, in a sealed package, by mail, there is substantial compliance with the requirements of this and preceding one.—*Bulwinkle v. Cramer*, 80 S. C., 153; 8 S. E., 689. Certificate and seal of the Notary sufficient evidence that he was a Notary and that the witness was sworn.—*Moore v. Willard*, 30 S. C., 615; 10 S. E., 441. The Statute does not require the certificate to be under the seal of the

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officer taking it; nor to state where the examination took place.—*Wallingford v. W. U. Tel. Co.*, 60 S. C., 201; 38 S. E., 446. Sufficiency of certificate.—*Henderson v. Williams*, 57 S. C., 1; 35 S. E., 261. Exhibits introduced need not accompany deposition.—*Stoddard v. Hill*, 38 S. C., 385; 17 S. E., 126. Package containing testimony; how to be transmitted and certified.—*Traven v. Jennings*, 39 S. C., 410; 17 S. E., 849.

Requisites of certificate.—*Riser v. Ry.*, 67 S. C., 419; 43 S. E., 47. Method of reading, certifying and forwarding.—*Hagins v. Ins. Co.*, 72 S. C., 216; 31 S. E., 683. Certificate not insufficient.—*Crosby v. S. A. L.*, 81 S. C., 24; 3 S. E., 1064.

ARTICLE IV.

GENERAL PROVISIONS RESPECTING EVIDENCE.

Sec.

3655. When signature of witness to bond or note need not be proved.

3656. Same, where defendant is executor, &c.

3657. When protest of Notary sufficient evidence of notice.

3658. Survivor of transaction impeached for fraud competent; exception.

3659. Attested copies of Acts, records, &c., good evidence.

3660. Copy municipal records.

3661. Laws of other States; how proved.

3662. Transcript from minute books of former Courts.

3663. Copies of certain instruments kept in a public office: 30 days' notice required, &c.

3664. Certificates of State Superintendent of Education.

3665. Certified copies of entries in Sheriff's book; ten days' notice required, &c.

3666. Copies of grants and plats issued by this State and North Carolina; when admissible.

3667. Certified copies of deeds of land; notice.

Sec.

3668. Certified copies of instruments other than wills.

3669. Not applicable when trust is alleged.

3670. Foreign instruments.

3671. Restriction upon use of copies of foreign instruments.

3672. Farmers' and planters' books receivable in evidence when.

3673. Books not admissible to prove debt for liquors sold; when.

3674. Medical books may be read in addition to expert testimony.

3675. Application for leave to substitute new records for records of judgments, &c. lost or destroyed; and proceedings thereon.

3676. Testimony as to lost deeds &c.

3677. Order as to at Chambers.

3678. Record to be made.

3679. Other proof admissible.

3680. Costs of proceedings.

3681. Mortuary table established.

3682. Copies of certain papers issued by common carriers prima facie evidence.

In absence of witnesses to bond or note, signature may be proved by other testimony, unless defendant swears that signature is not his.

Civ. '02, § 2884.

Section 3655. The absence of a witness to any bond or note shall not be deemed a good cause, by any Court of justice, for postponing a trial respecting the same; but the signature to such bond or note may be proved by other testimony; unless the defendant, in his answer, shall swear, or affirm, according to the form of his religious profession.

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that the signature of the bond or note in suit is not his or hers.

This Section applies only to bonds and notes.—Townsend v. Covington, 3 McC., 135. See also Harper v. Solomon, 1 Brev., 3; Manlgault v. Deas, 1 McC., 391; McGowan v. Reid, 27 S. C., 262; 3 S. E., 337. Signature by mark.—Gervais v. Beard, 2 Brev., 37. Witnesses to endorsement.—Madden v. Burris, 1 Brev., 387; Plunket v. Rowman, 2 McC., 85; Myers v. Taylor, 1 Brev., 245; Bussey v. Whittaker, 2 N. & McC., 374; Brown v. Edgar, 4 McC., 1.

Sec. 3656. In case the defendant or defendants should be executors or administrators, the cause shall not be postponed for want of the subscribing witness to the bond or note in suit, but the signature may be proven by other testimony; unless one of the executors or administrators, who are defendants, shall swear, or affirm, as aforesaid, in his answer, that they have cause to believe the signature to such bond or note is not the testator's or intestate's, as the case may be.

If defendant is executor, &c., cause not to be postponed unless he swears that he believes signature is not testator's.

Civ. '02, § 2885.

Sec. 3657. Whenever a Notary Public, who may have made protest for non-payment of any inland bill or promissory note, shall be dead, or shall reside out of the County in which said bill or note is sued, his protest of said bill or note shall be received as sufficient evidence of notice in any action by any person whatsoever, against any of the parties to such bill or note.

Notary's protest sufficient evidence if notary be dead, or lives in another County.

Civ. '02, § 2886.

Prior law stated in Williamson v. Patterson, 2 McC., 132. Proof of notice.—Dobson v. Laval, 4 McC., 57; Bank v. Green, 2 Ball., 230; Aiken v. Cathart, 2 Speer, 642. Clerk of Notary may prove from record.—Sharp v. Bingley, 1 Mill, 373; Haig v. Norton, 1 Mill, 423.

Sec. 3658. In any proceeding in any of the Courts of this State in which any transaction shall be impeached for fraud by a creditor, or creditors, of either party to such transaction, or by any other person interested in establishing such fraud, the survivor, or survivors, of the parties to such alleged fraud, when one more of the said parties shall be dead, shall be competent and compellable to testify in behalf of such creditor or creditors, or other person interested in establishing such fraud, any law, rule, or usage to the contrary notwithstanding: *Provided*, That nothing herein shall render such survivor, or survivors, competent to testify in relation to such transaction in their own behalf in any proceeding instituted by him or them: *Provided, further*, That nothing herein shall render any person incompetent

Survivors to a transaction impeached for fraud, competent and compellable to testify.

Civ. '02, § 2887.

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as a witness who is now competent under the laws and usage of this State.

Attested copies of Acts, records, &c., good evidence.

Civ. '02. § 2888.

Sec. 3659. An attested copy of any Act or ordinance of the General Assembly of this State, signed by the Secretary of State, and also attested copies of all records, signed by the keeper of such records respectively, shall be deemed and allowed as good evidence in any of the Courts of this State as the original could or might have been if produced to the said Courts.

Only private acts need be given in evidence.—State v. Sartor, 2 Strub. 60.

Copy of charter. Notice to produce original must be given.—Montgomery v. S. A. L. Ry., 73 S. C., 503; 53 S. E., 987.

Copy municipal records.

Civ. '02. § 2889.

Sec. 3660. A copy of any ordinance, or resolution or of the minutes or records of any town or city of this State when certified under the hand of the officer having custody of the records of such town or city and under the corporate seal thereof shall be admitted in evidence in any of the Courts of this State on ten days' notice of intention to offer such copy being given to the opposite party or his attorney.

Laws of other States, how proved.

Civ. '02. § 2890.

Sec. 3661. Printed copies, in volumes, of Statutes, Codes or other written law enacted by any other sovereignty, State, Territory, or foreign government, purporting or proved to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing law in the Courts and judicial tribunals of such sovereignty, State, Territory, or government, shall be admitted by the Courts and officers of this State, on all occasions, as presumptive evidence of such laws. The unwritten or common law of any other sovereignty, State, or Territory, or foreign government, may be proved as facts by parol evidence; and the books of reports of cases adjudged in their Courts may also be admitted as presumptive evidence of such law.

Bridger v. R. R., 25 S. C., 34.

Presumption as to foreign law, being same as that of the common law.—Crosby v. S. A. L. Ry., 81 S. C., 24; 61 S. E., 1064. Construction of Florida law.—Howard v. A. C. L. R. R. Co., 83 S. C., 240; 65 S. E., 245. Only exclusive method of proving a foreign law.—Free v. So. Ry., 78 S. C., 57; 55 S. E., 952. Only cases introduced in evidence can be considered.—Free v. So. Ry. Co., 83 S. C., 178; 65 S. E., 212; B. & L. Assn. v. Ebaugh, 185 U. S. 144.

Sec. 3662. A transcript from the minute books of any Court of record now or heretofore existing in this State.

shall be good and legal evidence in any trials in any of the Courts in this State, when it may be necessary to give such proceedings in evidence: *Provided*, That such transcript be regularly and duly certified under the hand of, and sworn to by, the Clerk or keeper of the said proceedings and records of the said Courts, who has, by law, the custody thereof; any law, usage, or custom to the contrary notwithstanding.

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Transcripts
from minute
book of former
Courts.Civ. '02, §
2891.

Cook v. Wood, 1 McC., 139.

Sec. 3663. A copy of any administration bond, guardianship bond, Constable's bond, bond of a trustee, or bond of the committee of a lunatic, and all other instruments in writing, which, by law, are required or permitted to be in writing, and kept in a public office, certified by the officer having the custody of the same, shall be admitted in evidence in any of the Courts of this State, on thirty days' previous notice of the intention to offer such copy being given to the party against whom it is to be offered, or his or her attorney.

Copies of
certain in-
struments
kept in a pub-
lic office;
thirty days'
notice requir-
ed, &c.Civ. '02, §
2892.

Sec. 3664. Copies of all papers filed in the office of the State Superintendent of Education, and his official acts, may be certified by him, and when so certified shall be evidence equally and in like manner as the original papers.

Certificates of
State Super-
intendent of
Education.Civ. '02, §
2893.

Sec. 3665. A copy of any entry in the official books of any Sheriff, certified to by the oath of such Sheriff, before the Clerk of the Court of Common Pleas and General Sessions, under the seal of said Court, shall be received as competent evidence by any of the Courts of this State, except in causes tried in the County where the said books are kept: *Provided*, That ten days' notice in writing of intention to offer such copy be first given to the opposite party, his attorney or solicitor.

Certified cop-
ies of entries
in Sheriff's
books; ten
days' notice
required, &c.Civ. '02, §
2894.

Sec. 3666. It shall be lawful, in every Court of this State, for any party, plaintiff or defendant, to produce in evidence a copy, certified by the Secretary of State, of any grant and plat of land issued under the authority of this State, or certified copies of grants, under the authority of the State of North Carolina: *Provided* That the person or persons so applying to produce an office copy of a grant in evidence swear that the original grant is lost, destroyed,

Copies of
grants and
plats issued by
this State and
North Carolina.Civ. '02, §
2895.

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or out of his, her, or their power to produce, and that he, she, or they have not destroyed, mislaid, or in any way willingly, previous to that time, put it out of his, her, or their power to produce the same, with an intention to produce an office copy of the same in evidence: *And provided, also,* That nothing herein contained shall be construed to deprive any party in possession of the original grant of any advantage he would have had or derived from possessing the same, in case this Section had never been passed.

Where copy is introduced it is not necessary to first prove the execution of the original.—*Stone v. Flitts*, 38 S. C., 393; 17 S. E., 138. Very slight evidence of loss or original grant sufficient.—*Turner v. Morris*, 1 Brev., 236. But the non-production of original must be accounted for.—*Malcomson v. McKee*, 1 Brev., 168. A copy of the grant, without a copy of plat, is sufficient.—*Rosamond v. McIlwain*, 2 Brev., 132. The affidavit required must be made by all the persons so applying themselves.—*Marane v. Carroll*, 2 Bay, 525. *Linning v. Crawford*, 2 Ball., 296. It may be made at any time after commencement of suit.—*Turnipseed v. Freeman*, 2 McC., 269; *Linning v. Crawford*, 2 Ball., 591.

Copies of
deeds where
originals are
lost.

Civ. '02,
2896.

Sec. 3667. A copy of any deed of conveyance of real estate certified by the Register of Mesne Conveyances or Clerk of Court of the County where the same may be recorded, may be produced in evidence in every Court of this State for any party, plaintiff or defendant, in like manner and subject to the same rules as are provided by the foregoing Section in relation to grants and plats: *Provided,* That the party intending to offer in evidence such office copy shall give at least ten days' notice thereof to the opposite party or his attorney.

This Section applies only to the copy of the record, as the record itself may be introduced without notice.—*State v. Crocker*, 49 S. C., 242; 27 S. E., 49. Plat is part of deed.—*Id.* Oath as to loss is indispensable to such evidence.—*Duren v. Sinclair*, 22 S. C., 361. Proof of loss alone is sufficient, the execution and existence need not be proved.—*Dingle v. Bowman*, 1 McC., 177; *McLeod v. Rogers*, 2 Rich., 19; *Darby v. Huffman*, 2 Rich., 532. Recording means proper recording, after probate.—*Lamar v. Raysor*, 7 Rich., 509. A copy of deed embraces copy of power of attorney to execute it, recorded with it.—*Duren v. Sinclair*, 22 S. C., 361. Party may show seal of original deed, where Clerk failed to copy it in registry.—*Sams v. Shield*, 11 S. C., 182. The required notice must be in writing.—*O'Neal v. Isbell*, 9 Rich., 367. Where copy is introduced it is not necessary to first prove execution of original.—*Stone v. Flitts*, 38 S. C., 393; 17 S. E., 136.

Certified copy, or record, is only admissible as evidence where deed is recorded in proper County.—*Cole v. Ward*, 79 S. C., 573; 61 S. E., 108.

Sec. 3668. The production (without further or other proof) of the original of any and every instrument in writing (other than wills) required by law to be recorded

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shall always and everywhere be *prima facie* evidence of the execution and recording of such instrument: *Provided*, That each instrument shall have been recorded in the manner and place and within the time prescribed by law for recording the same, and the recording thereof shall have been certified by the Clerk of Court or Register of Mesne Conveyance: *And provided, further*, That any party or his attorney producing any such recorded instrument shall have given at least ten (10) days' previous notice in writing to the opposite party or his attorney of the intention so to produce any such recorded instrument with a description of the same.

How recorded instruments, other than wills, may be proved, by production of original.

Civ. '02, § 2897.

As proof of wills, see Section —, *ante*.

Sec. 3669. The provisions of the preceding Section shall not apply when any such recorded instrument is assailed or attacked on the ground of fraud in its execution: *Provided*, That at least ten (10) days' previous notice in writing of each ground by a pleading or otherwise and duly sworn to shall have been given by the party or his attorney so assailing or attacking such instrument to the opposite party or his attorneys.

Not applicable when fraud is alleged.

Civ. '02, § 2898.

Sec. 3670. All exemplifications of records, and all deeds and bonds, or other specialties, all letters of attorney, procuration, or other powers in writing, and all testimonials, which shall at any time be produced in any of the Courts of this State, and shall be attested to have been proved, upon oath, under the corporation seal of any Mayor or chief officer of any city borough, or town corporate in any foreign state, or under the hand of the Governor and public seal of any State in America, or under the notarial seal of any Notary Public, shall be deemed and adjudged good and sufficient in law, in any of the Courts of judicature in this state, as if the witnesses to such deeds were produced and proved the same *viva voce*, except as hereinafter provided.

Foreign instruments.

Civ. '02, § 2899.

Gregory v. Williams, Harp., 417; Napier v. Gidlere, 1 Speer Eq., 215; McEnny v. Gordon, 13 Rich., 40; Campbell v. Ins. Co., 1 S. C., 158.

Sec. 3671. No testimonial, probate, certificate, or other instrument under the seal of any foreign Court of law, Notary Public, or other Magistrate or person qualified and empowered to give the same, shall be received in the Courts of

Restriction upon use of copies of foreign instruments.

Civ. '02, § 2899.

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the State as evidence of any debt due or demand owing by any person or persons resident within the limits of this State: *Provided, nevertheless,* That if it shall appear to the Court that the testimonials, probates, certificates, or other instruments of writing for the purposes aforesaid, which have been, or shall be hereafter, issued from any of the Courts of this State, or by any of the officers thereof authorized and empowered to give the same, are received and allowed as evidence in the Courts of such foreign country, then such instruments of writing shall be received in evidence in the Courts of this State.

Farmers' and
planters'
books receiv-
able in evi-
dence.

Civ. '02, §
2900.

Sec. 3672. Books of original entry kept by farmers and planters relating to the transactions of their farms or plantations shall be receivable in evidence in all trials in which the business or transactions of their farms or plantations shall be called in question, as between the farmer or planter and his employees, in the same manner as books of merchants and shop-keepers are.

Account
books not ad-
missible to
prove debt
for liquors
sold in less
quantity than
a quart.

Civ. '02, §
2901.

Sec. 3673. The books of accounts of tavern-keepers, shop-keepers, or retailers of spirituous liquors shall not be admitted, allowed, or received as evidence in any Court having a right to try the same, of any debt contracted, or moneys due, for spirituous liquors sold in less quantity than a quart.

Medical or
scientific
books; in
what cases
may be read.

Civ. '02, §
2902.

Sec. 3674. In all actions or proceedings, civil or criminal, in which the question of sanity or insanity, or the administration of poison or other article destructive to life, is involved, and in which expert testimony may now be introduced, the medical or scientific works, or such parts thereof as may be relevant to the issues involved, shall be competent and admissible to be read before the Court, or jury, in addition to such expert testimony.

Applications
for leave to
substitute new
record in
place of lost
or destroyed.

Civ. '02, §
2903.

Sec. 3675. The plaintiff or plaintiffs, or any of them, in any judgment or decree, the record whereof has been destroyed or abstracted or lost, or his or their personal representatives, or other person or persons claiming under or through them, or any or either of them, or any person whatever, having an interest in the preservation of the evidence of such judgment or decree, may, upon notice of not less than twenty-one days, served as a summons in actions now served pursuant to law, upon the defendant or

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defendants therein, or upon those upon whom his, her or their liability has devolved, or others interested to oppose the application, apply to the Court in which such judgment or decree was rendered for leave to substitute a new record; and if, upon hearing the evidence on each side, the Court is satisfied of the existence and loss of such record, and order for leave to substitute shall be made, conforming as nearly as possible in all respects to the lost, abstracted or destroyed record; and if it be for the payment of money, the balance due thereon and date of lien, if any, shall be made to appear thereon, and such substituted record shall be good and valid in law to all intents and purposes.

DuBois v. Thomas, 14 S. C., 80.

Sec. 3676. Any person interested in the preservation of the contents of any deed, release, private writing usually put on record, or document, alleged to have been lost or destroyed or defective in the record thereof, and desiring to preserve the evidence thereof for any purpose, may, by summons and complaint as now provided by the Code of Procedure, institute action in the Court of Common Pleas to perpetuate testimony as to the existence and true contents of the same, in which complaint the defects, if any, complained of in the records shall be substantially set forth, and to said action all persons interested, or known or supposed to claim an interest in the property to which such testimony may relate, shall be made parties defendants, and served with summons as now provided by law in civil actions.

Lost deeds,
&c., proceed-
ings to per-
petuate tes-
timony of.

Civ. '02, §
2904.

Sec. 3677. The Court, or Judge at chambers, having jurisdiction of the subject matter may hear, determine and grant all orders, as will best subserve the purposes of the complaint, and the preservation of the testimony sought, without delay.

Judge may
hear at cham-
bers and grant
all necessary
orders.

Civ. '02, §
2905.

Sec. 3678. The evidence so taken shall be preserved, and the parties may have the same recorded in the office to which the same may relate; and such evidence, so taken, preserved and recorded, shall be received in all Courts, subject to the same rules as to competency and credibility as any other evidence.

Evidence
may be re-
corded; its
force and ef-
fect.

Civ. '02, §
2906.

Sec. 3679. Nothing herein contained shall prevent any one from establishing, on the trial of any cause, any lost

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Other proof
of lost papers
not excluded.Civ. '02, §
2907.Costs discre-
tionary with
Judge.Civ. '02, §
2908.Mortuary ta-
ble establish-
ed.1903, XXIV,
92.

papers, according to the rules of evidence existing at com-
mon law.

State v. Crocker, 49 S. C., 242; 27 S. E., 49.

Sec. 3680. The costs of such proceedings as shall be had
under the provisions of the six last preceding Sections shall
be in the discretion of the presiding Judge.

Sec. 3681. In all civil actions or other modes of litiga-
tion, whenever it shall be necessary to establish the expect-
ancy of continued life of any person from any period of
such person's life, whether he be living at the time or not,
the table hereto appended shall be received in all Courts and
by all persons having power to determine litigation as evi-
dence, with other evidence as to the health, constitution and
habits of such person, of such expectancy represented by the
figures in the columns headed by the words "completed age"
and "expectation," respectively:

Completed Age.	Expectation.
10	48.7
11	48.1
12	47.4
13	46.8
14	46.2
15	45.5
16	44.9
17	44.2
18	43.5
19	42.9
20	42.2
21	42.53
22	40.85
23	40.17
24	39.49
25	38.81
26	38.11
27	37.43
28	36.73
29	36.03
30	35.33
31	34.62
32	33.92

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Completed Age.	Expectation.
33	33.21
34	32.50
35	31.78
36	31.07
37	30.35
38	29.62
39	28.90
40	28.18
41	27.45
42	26.72
43	25.99
44	25.27
45	24.54
46	23.80
47	23.08
48	22.36
49	21.63
50	20.91
51	20.20
52	19.49
53	18.79
54	18.09
55	17.40
56	16.72
57	16.05
58	15.39
59	14.74
60	14.09
61	13.47
62	12.86
63	12.26
64	11.67
65	11.10
66	10.54
67	10.00
68	9.47
69	8.97
70	8.48
71	8.00
72	7.55

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Completed Age.	Expectation.
73	7.11
74	6.68
75	6.27
76	5.88
77	5.49
78	5.11
79	4.74
80	4.39
81	4.05
82	3.71
83	3.39
84	3.08
85	2.77
86	2.47
87	2.18
88	1.91
89	1.66
90	1.42
91	1.19
92	.98
93	.80
94	.64
95	.50

Copies of
certain papers
issued by com-
mon carriers
prima facie
evidence.

1910, XXVI,
695.

Sec. 3682. It shall be competent to introduce in evidence any instrument purporting to be the original or copy of any waybill, receipt, bill of lading, or similar instrument issued by any common carrier, as *prima facie* evidence that the same is genuine or is a true and correct copy: *Provided*, The adverse party shall fail, upon due notice given, to produce the original instrument.

CHAPTER XCV.

Jurors and Juries.

ARTICLE 1. Jury Commissioners; and Drawing and Summoning Jurors.

ARTICLE 2. Qualifications, Exemptions, Empanelling and Pay of Jurors.

ARTICLE 3. Objections to Jurors; Verdict.

ARTICLE 4. Miscellaneous Provisions.

ARTICLE I.

JURY COMMISSIONERS, AND DRAWING AND SUMMONING JURORS.

SEC.
 3683. Jury Commissioners.
 3684. Preparation of jury list.
 3685. Jury box; how prepared, how secured.
 3686. Petit jurors; how prepared and summoned.
 3687. Jurors to be publicly drawn.
 3688. Jurors selected by draft.
 3689. Disposition of names drawn.
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 3691. Draft from tales box.
 3692. Number of jurors to be drawn.
 3693. Sheriff to summons jurors; when.

SEC.
 3694. Deficiency in jurors; how supplied.
 3695. Special jury lists in certain cases.
 3696. Duty of Circuit Judge in case of irregularity.
 3697. Vacancy in Jury Commissioners; how filled.
 3698. List of juries when Jury Commissioners fail to prepare list.
 3699. Commissioners to serve without compensation.
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 3701. Grand jury may employ expert accountant.

A writ of *venire* without the seal of the Court is void, and is ground for rest of judgment.—State v. Dozler, 2 Speer; State v. Williams, 1 Rich., 18; State v. Stephens, 11 S. C., 319. No *venire* can issue for talesmen.—State v. Williams, 2 Hill, 381; State v. Stephens, 11 S. C., 319; State v. Hill, 19 S. C., 435. Defect in such writ, if issued, is no ground for arrest of judgment.—State v. Hill, 19 S. C., 435; State v. Gilreath, 19 S. C., 603. *Venire* need not be signed by Attorney General or Solicitor.—State v. Hill, 19 S. C., 435. If it anywhere appears in the writ that it is issued in the name of the State, that is sufficient compliance with Constitution.—*Id.* The failure of Sheriff to endorse on the *venire* its entry in his office does not validate it.—State v. Clayton, 11 Rich., 581. Where contrary does not appear the service will be presumed to be correct.—State v. McGraw, 35 S. C., 283; 14 S. E., 630.

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The drawing is invalid, and it is good ground of challenge to the array, if the Jury Commissioner, who assisted, is a near blood relation of the deceased.—State v. McQuaige, 5 S. C., 429. Not so where the relationship was by marriage and remote.—State v. McNinch, 12 S. C., 89. The absence of one of the Board of Jury Commissioners does not invalidate the drawing.—State v. Merriman, 34 S. C., 16; 14 S. E., 394. If jury illegally drawn judgment will be arrested.—State v. Jennings, 15 Rich., 42.

State v. Stephens, 13 S. C., 285; State v. Clyburn, 16 S. E., 375; State v. Jackson, 32 S. C., 27; 10 S. E., 769.

See Criminal Statutes as to Grand Jurors.

Immaterial irregularity in summoning the jury does not affect their legality.—State v. Crosby, Harp., 91; State v. McElmurray, 3 Stroh., 23; State v. Jeffcoat, 26 S. C., 114; 1 S. E., 440. Jurors summoned by an acting Deputy Sheriff and serving are lawful.—State v. McGraw, 35 S. C., 283; 14 S. E., 630.

Court will presume that Sheriff read the *venire* to juror.—State v. Toland, 36 S. C., 515; 15 S. E., 599. Residence is place of abode.—*Id.* Sheriff may make return the day Court opens, but he must make it before the hour Court opens.—*Id.* Service by deputy good, although no endorsement in writing of his appointment upon the *venire*.—*Id.* Failure of Sheriff to serve a juror of the County does not affect the array.—State v. Derrick, 44 S. C., 175; 2 S. E., 337. In the absence of proof to the contrary it will be presumed that the *venires* were properly served.—State v. McGraw, 35 S. C., 283; 14 S. E., 630.

This drawing was properly made from such special apartment, when, in the presence of the Court, the Board of Jury Commissioners took from the jury box the names of residents designated and then drew the required number. The law providing for such special apartment not having been passed at the time when the jury was originally drawn.—State v. Cardozo, 11 S. C., 195; State v. Smalls, 11 S. C., 262. It is not necessary for all the parties designated to draw such jurors to see the drawing of the names; it may be done by a majority of them.—State v. White, 15 S. C., 381. The regular jurors may be exhausted before the drawing can be made.—State v. Anderson, 26 S. C., 601; 2 S. E., 699. It does not vitiate such drawing that only 148 names were put in special apartment.—State v. Merriman, 34 S. C., 16; 12 S. E., 619. No *venire* is necessary to summon the jurors so drawn as talesmen.—State v. Williams, 2 Hill, 381; State v. Stephens, 11 S. C., 319; State v. Hill, 19 S. C., 435; State v. Anderson, 26 S. C., 601; 2 S. E., 699; State v. Merriman, 34 S. C., 16; 12 S. E., 619. Although it may be done by *venire*.—State v. Coleman, 8 S. C., 237. When the regular and special apartments of the jury have both been exhausted, the deficiency should be supplied by issuing a *venire* for additional jurors as herein prescribed; the trial should not be postponed.—State v. Briggs, 27 S. C., 80; 2 S. E., 854. There can be no challenge to array of jurors drawn to supply such deficiency; each juror may be challenged for reason.—State v. Merriman, 34 S. C., 16; 12 S. E., 619.

State v. Powers, 59 S. C., 367; 37 S. E., 690; State v. Toland, 36 S. C., 515; 15 S. E., 599.

Jury Commissioners; of whom constituted.

1902, XXIII, 1086.

Section 3683. The County Auditor, the County Treasurer and the Clerk of the Court of Common Pleas of each County in this State shall perform the duties hereinafter set forth.

Preparation of jury list; what and how many electors to be placed on; when prepared.

Id.

Sec. 3684. The said County Auditor, County Treasurer, and the Clerk of the Court of Common Pleas of each County shall in the month of December, of each year, prepare a list of such qualified electors, under the provisions of the Constitution, between the ages of twenty-one and

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sixty-five years and of good moral character, of their respective Counties, as they may deem otherwise well qualified to serve as jurors, being persons of sound judgment and free from all legal exceptions, which list shall include not less than one from every three of such qualified electors under the provisions of the Constitution, between the ages of twenty-one and sixty-five years, and of good moral character, to be elected without regard to whether such persons live within five miles, or more than five miles from the Court House.

Sec. 3685. Of the list so prepared, the County Auditor, ^{Jury box} County Treasurer and Clerk of the Court of Common Pleas, ^{how prepared.} shall cause the names to be written, each one on a separate paper or ballot, so as to resemble each other as much as possible and so folded that the name written thereon shall not be visible on the outside, and shall place them, with the said list, in a strong and substantial box, without apertures or openings when closed (to be known as the "Jury Box") to be furnished to them by the County Supervisor of their County for that purpose, and of such size and shape as that, when such separate papers or ballots shall have been folded and placed therein as above required, they may be easily shaken up and about and well mixed therein, and it shall be the duty of the Clerk of the Court to keep said jury box in his custody. The said jury box shall be kept securely locked with three separate and strong locks, each lock being different and distinct from the other two and requiring one ^{How secured} key peculiar to itself in order to be unlocked and the key ^{and kept.} to one of said three locks shall be kept by the County Auditor himself, the key to another of said three locks by the County Treasurer himself, and the key to the third of said three locks by the Clerk of the Court of Common Pleas himself, so that no two of them shall keep a similar key or similar keys to the same lock, and so that all three of them must be present together at the same time and place in order to lock or unlock and open the said jury box. ^{Tales box to} At the same time they shall place in a special apartment in the ^{be prepared.} said jury box (which special apartment shall be known as the tales box") the names of not less than one hundred or more than four hundred of such of the persons whose names appear on said list as reside within five miles of the

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Court House, from which tales box shall be drawn jurors to supply deficiencies arising from any cause of emergency during the sitting of the Court. The names of persons placed in said tales box shall be also placed in the said jury box.

Petit Jurors;
how drawn
and summoned.

Ib.

Sec. 3686. Not less than ten nor more than twenty days before the first day of each week of any regular or special term of the Circuit Courts the said the County Auditor, the County Treasurer and the Clerk of the Court of Common Pleas shall proceed in like manner to draw thirty-six petit jurors, to serve for such week only: *Provided*, That whenever a jury shall be charged with a case, such jury shall not be discharged by reason of anything in this Section contained until a verdict shall be found or a mistrial ordered in such case. Immediately after such petit jurors are drawn the Clerk of the Court of Common Pleas shall issue his writ of *venire facias* for such petit jurors, requiring their attendance on the first day of the week for which they have been drawn; and the said writ of *venire facias* shall be forthwith delivered to the Sheriff of the County.

Jurors to be
publicly
drawn.

Ib.

Sec. 3687. The said drawing shall be made openly and publicly in the office of the Clerk of the Court of Common Pleas, and the County Auditor, the County Treasurer and the Clerk of the Court of Common Pleas shall give ten days' notice of each of said drawings by posting in a conspicuous place on the Court House door, or by advertisement in a County newspaper, a notice of the place, day and hour of such drawing.

Jurors select-
ed by draft.

Ib.

Sec. 3688. All jurors shall be selected by drawing ballots from the said jury box, and, subject to the exceptions herein before contained, the persons whose names are on the ballots so drawn shall be returned to serve as jurors.

Disposition
of names
drawn.

Ib.

Sec. 3689. The names of those who are drawn and actually serve as jurors shall be placed in an envelope, and shall not be put back into the said jury box until the first revision of the jury list herein provided for after they have been so drawn, to the end that no person shall serve as a juror more than once in one year. The same rule shall be observed as to drawing jurors from the said tales box: *Provided*, That nothing herein contained shall be construed to be in conflict with the provisions of the law as to selecting

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lot from the Grand Jury six members thereof to serve for the ensuing year.

Sec. 3690. Nothing contained in this Article shall prevent the Clerk of the Court of Common Pleas from issuing *venires* for additional jurors in term time upon the order of the Court, whenever it is necessary for the convenient dispatch of its business, in which case *venires* shall be served and returned, and jurors required to attend on such days as the Court shall direct.

Venires may
issue in term
time for addi-
tional jurors.

Ib.

Sec. 3691. In drawing jurors from the said tales box the same rules shall be observed as in drawing from said jury box, except that no notice of such drawing shall be necessary.

Draft from
tales box.

Ib.

Sec. 3692. No more than thirty-six persons, to serve as petit jurors, shall be drawn and summoned to attend at one and the same time at any Court, unless the Court shall so order.

Number Jur-
ors to be
drawn.

Ib.

Sec. 3693. The grand and petit jurors drawn hereinbefore prescribed, from the said jury box, shall be summoned by the Sheriff, as provided by law, at least four days before the time fixed in the *venire* for them to attend the sitting of the Court.

Sheriff to
summons Jur-
ors; when.

Ib.

Sec. 3694. Whenever it shall be necessary to supply any deficiencies in the number of grand or petit jurors duly drawn, whether caused by challenge or otherwise, it shall be the duty of the County Auditor, the County Treasurer and the Clerk of the Court of Common Pleas, under the direction of the Court, to draw from the said tales box such number of fit and competent persons to serve as jurors as the Court shall deem necessary to fill such deficiency.

Deficiency in
Jurors; how
supplied.

Ib.

Sec. 3695. Whenever the jury list of any County shall be destroyed by fire or other casualty, or whenever it shall be found by any Court of competent jurisdiction that the jury list of any County has been unlawfully prepared, or is irregular or illegal, so as to render void the drawing of jurors therefrom, it shall be the duty of the County Auditor, the County Treasurer, and the Clerk of the Court of Common Pleas of each County to prepare a special jury list for said County forthwith in the manner herein prescribed, from which special list grand and petit jurors shall be drawn for the Courts of General Sessions and Common

Special Jury
lists in certain
cases.

Ib.

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Duty of Circuit Judge in case of irregularities.

Id.

Vacancy in Jury Commissioners; how filled.

Id.

List of juries when Jury Commissioners fail to prepare list.

1905, XXIV, 917.

Pleas for such County until the annual jury list shall have been prepared for such County as herein provided.

Sec. 3696. When at any time it shall be determined by the resident Circuit Judge of any Circuit, upon complaint made to him, that an irregularity has occurred in the drawing of the juries for any Circuit Court within his Circuit, or that any act has been done whereby the validity of any juries drawn or to be drawn may be questioned, it shall be lawful for such Circuit Judge to issue his order to the County Auditor, the County Treasurer, and the Clerk of the Court of Common Pleas for each County for which said Circuit Court shall be held at least five days before the sitting thereof, to proceed to draw jurors for such term, or take such measures as may be necessary to correct such error.

Sec. 3697. In case there shall be a vacancy in the office of the Clerk of the Court of Common Pleas, County Auditor, or County Treasurer, at the time herein fixed for preparing said jury list, or for drawing a jury, or any one of said officers shall be disqualified or unable to serve for any cause, the County Superintendent of Education shall act in his place and stead, and in case there shall be a vacancy in two of said offices, or for any other cause, two of said officers shall be unable to serve, the County Superintendent of Education and the Sheriff of such County shall act in their places and stead.

Sec. 3698. When the Jury Commissioners in any County in this State shall have heretofore omitted or shall hereafter omit to prepare the list of jurors for the then ensuing year, or to prepare the ballots of the names and place them in the boxes, at the time and in the manner required in this Act, the Chief Justice, and Associate Justice of the Supreme Court or any Circuit Judge shall have the authority and is required to grant an order on the application of any Solicitor or attorney at law, showing such omission by affidavit, which may be on information and belief, requiring the Jury Commissioners in question, within ten days after such order, to prepare said lists and ballots of names and to prepare the jury boxes (*nunc pro tunc*), and all juries drawn from said boxes shall be as valid and lawful as if the said omission had not occurred.

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Sec. 3699. The said County Auditor, County Treasurer and Clerk of the Court of Common Pleas and General Sessions shall perform the duties required of them as Jury Commissioners without compensation.

To serve
without com-
pensation.Civ. '02, §
2910.

Jury law of 1900, unconstitutional.—State v. Queen, 62 S. C., 247; 40 S. E., 553. Jury list prepared by Supervisor, instead of Jury Commissioners, not fatal.—Hutto v. So. Ry. Co., 75 S. C., 295; 55 S. E., 445. See also Rhodes v. Ry., 68 S. C., 404; 47 S. E., 689.

State v. Smith, 77 S. C., 248; 57 S. E., 868. Sheriff assisting in drawing.—State v. Nelson, 80 S. C., 373; 61 S. E., 897.

Irregularities in preparing list not fatal.—Hutto v. So. Ry. Co., 75 S. C., 295; 55 S. E., 445; Rhodes v. Ry., 68 S. C., 404; 47 S. E., 689.

Time of drawing or preparing list—directory only.—State v. Smalls, 73 S. C., 516; 53 S. E., 976; Hutto v. So. Ry., 75 S. C., 295; 55 S. E., 445.

If any of the Commissioners are absent the County Superintendent of Education shall act in his place.—State v. Smith, 77 S. C., 248; 57 S. E., 868. Number of keys same.

Ten days before sustained in Greenwood County.—State v. Washington, 82 S. C., 341; 64 S. E., 386.

Objection that venire was not under seal must be made or noticed before trial.—State v. Lazarus, 83 S. C., 215; 65 S. E., 270.

Sec. 3700. Whenever the terms of the Court of General Sessions and Common Pleas in the Counties of Edgefield, Barnwell, Marion, Marlboro, Cherokee, Aiken, Richland, Orangeburg, York, Greenville, Colleton, Chester, Darlington, Florence, and Union shall be for two or more weeks, no petit juror shall be required to serve more than one week at any term of said Courts: *Provided*, That in the Counties of Marlboro and Marion such extra venire shall be drawn for the Spring Term of each alternate year only, beginning with the year 1899 in Marlboro County, and in the year 1900 in Marion; the Clerks of said Counties shall receive no extra compensation for issuing such venire, and the Sheriffs of said Counties shall receive no compensation for serving same, except mileage shall be allowed. Thirty-six jurors shall be drawn in the manner provided by law to serve for the first week, and a like number shall be drawn for each subsequent week of each term of said Courts; but whenever a jury shall be charged with a case, such jury shall not be discharged by reason of anything in this Section contained until a verdict shall have been found or a mistrial ordered in such case: *Provided*, That the thirty-six jurors drawn in the County of York for the second week, and the County of Barnwell for the second week of each Winter Term, and in the County of Aiken for the second week of each Spring Term of said Courts, and in the

Term of
Jurors.Civ. '02, §
2927. 1906,
XXV, 109.

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Counties of Darlington and Florence for the second week of each Fall Term of said Courts, and for the Counties of Marion and Marlboro for the second week of each Term of said Courts, which is unlimited by the Statute for these Counties, respectively, may be held over after the expiration of the time for which they were drawn, and until the business of the session's docket and the business on the Calendar 1, of the Court of Common Pleas for these Counties, shall be disposed of. Separate writs of venire shall issue for the jurors drawn to serve for each week of said terms of Court.

Grand jury may employ expert accountant.

1909, XXVI, 121.

Sec. 3701. Grand juries may, whenever in their judgment it becomes necessary, employ one or more expert accountants to aid them to examine and investigate the offices, books, papers, vouchers and accounts of any public officer of their respective Counties, and to fix the amount of compensation or per diem to be paid therefor, upon the approval of the presiding or Circuit Judge, given before any expert is employed.

ARTICLE II.

QUALIFICATION, EXEMPTION, EMPANELLING AND PAY OF JURORS.

SEC.

- 3702. County officials not eligible.
- 3703. Conviction of crime, &c., disqualifies name to be withdrawn.
- 3704. Persons exempt from serving as Jurors.
- 3705. No Juror excused except for cause.
- 3706. No person liable to be drawn more than once each year; proviso.

SEC.

- 3707. Per diem and mileage of Jurors.
- 3708. Jury to receive one dollar in each case tried.
- 3709. Empanelling Jurors in Common Pleas.
- 3710. Each jury to choose a foreman.
- 3711. When petit Jurors may be discharged.

As to qualifications of jurors are prescribed by Sec. 22, Art. V, of the Constitution of 1895, superseding G. S. 2239; R. S. 2377.

County officers and Court employees disqualified.

Civ. '02, § 2933.

Section 3702. No Clerk, Constable, or Deputy of the Clerk of the Court, Sheriff, Probate Judge, County Commissioners, Magistrates, or other County officer, or any employee within the walls of any Court House, shall be eligible as a jurymen in any civil or criminal case.

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Jurors should be held disqualified by relationship within the sixth degree to parties litigant.—State v. Brock, 61 S. C., 141; 39 S. E., 359.

Juror is disqualified where he is second cousin by marriage, that being related within the sixth degree.—State v. Byrd, 72 S. C., 104; 51 S. E., 542.

Magistrate disqualified from acting as juror in case in which he has acted.—State v. Graham, 79 S. C., 116; 60 S. E., 431.

Sec. 3703. If any person whose name is placed in the jury box is convicted of any scandalous crime, or is guilty of any gross immorality, his name shall be withdrawn herefrom by the Board of Jury Commissioners, and he shall not be returned as a juror.

Persons guilty of crime not to be drawn.

Civ. '02, § 2934.

One convicted of larceny, though prior to the Constitution of 1895, is disqualified.—Garrett v. Weinberg, 54 S. C., 127; 31 S. E., 341.

Sec. 3704. The following persons shall be exempt from serving as jurors, to wit: The Governor, Lieutenant-Governor, Attorney-General, Comptroller-General, State Treasurer, Secretary of State, Superintendent of Education, members and officers of the Senate and House of Representatives during the sessions of the General Assembly, members of the Senate and House of Representatives of the United States, Judges and Justices of any Court, members of the State Board of Examiners appointed by the Governor, members of the County Board of Examiners appointed by the State Board of Examiners, County Commissioners, County Auditors and Treasurers, Clerks of Courts, Registers of Mesne Conveyances, Sheriffs and their Deputies, Coroners, Constables, the Marshals of the United States and their Deputies, and all other officers of the United States, Counsellors and Attorneys at Law, Ordained Ministers of the Gospel, Officers of Colleges, Preceptors and Teachers of Academies, practicing Physicians and Surgeons, regularly licensed Dentists authorized by law to practice dentistry, licensed Pharmacists, Apothecaries or Druggists who carry on and conduct the business of such occupation, Cashiers and Tellers of incorporated Banks, Editors and Printers of newspapers, constant Ferrymen, Millers actually engaged at the time in grinding grain for the public, and all men actually employed as such, persons who are more than sixty-five years old, and the following officers and employees of railroads: the Chief Engineer, Assistant Engineers, Commissioner or Superintending Officer, Secretary and Auditor, or Treasurer or Directors,

Persons exempt from serving as jurors.

Civ. '02, § 2935. 1902. XXIII, 1028. 1907, X X V, 492.

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Keepers of Depositories, Guards stationed on road to protect it from injury, not exceeding one man to every five miles, and such persons as may be actually employed in working locomotive engines, traveling with cars for the purpose of attending to the transportation of passengers and goods, not exceeding one Engineer and Assistant to each steam engine, and one person to each passenger car and to every five cars for transporting goods, while such persons are actually employed, and Telegraph Operators, and all officers and members of the Fire Department of Charleston, and all the officers and active members of the Fire Department of any city or town of ten thousand or more inhabitants, the Superintending Officer or Agent of steamship lines, the Keepers of steamship freight depots, and licensed Pilots while actually employed, and all Marine Engineers and their Assistants, and all town and city Treasurers and their Assistants, and licensed Embalmers.

Rural free delivery carriers.—State v. Graham, 79 S. C., 116; 60 S. E. 45.

Such exemption is a personal privilege, does not disqualify the juror, and is no ground of objection to him.—State v. Merriman, 34 S. C., 16; 14 S. E. 394; State v. Toland, 36 S. C., 515; 15 S. E., 599.

No juror to be excused except for cause.

Civ. '02, § 2936.

Sec. 3705. No person shall be liable to be drawn and serve as a juror in any Court oftener than once in every year; but he shall not be so exempt unless he actually attends and serves as a juror in pursuance of the draft: nor shall he be exempt from serving on a jury in any other Court in consequence of his having served before a Magistrate.

No person liable to be drawn more than once each year; proviso.

Civ. '02, § 2937.

Sec. 3706. No juror who has been drawn to serve at any term of the Court shall be excused except for good and sufficient cause, upon affidavits, which, together with his application, shall be filed in the office of the Clerk of the Court, and remain on record.

Per diem and mileage of jurors.

Civ. '02, § 2938. 1907, XXV, 518.

Sec. 3707. Jurors shall receive per day two dollars besides mileage at the rate of five cents per mile going to and returning from Court. Jurors in Magistrate Courts shall receive twenty-five cents for each civil case tried, and mileage as allowed other jurors.

Mileage: how computed.

Whenever provision is made by law for the payment of the mileage of jurors, witnesses and other persons required to attend Court or to travel to perform any legal duty.

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said mileage shall be computed and paid for by the shortest practical route to be traveled over any regular established highway.

Sec. 3708. The jury in each case tried in the Court of Common Pleas shall receive one dollar from the party in whose favor the verdict is rendered, to be taxed with the costs of the action.

Jury to receive one dollar in each case tried.

Civ. '02, § 2939.

Sec. 3709. In the trial of all actions at law in the Courts of Common Pleas, and issues ordered to be framed by the Judge in equity cases in said Courts, it shall be the duty of the Clerk to furnish the parties, or their attorneys, with a list of twenty of the jurors to be drawn and selected by ballot from the whole number of jurors who are in attendance, the names on said lists to be numbered from one to twenty, and be stricken off by numbers in the same manner as the regular panels of jurors in said Courts have been heretofore formed, from which said list the parties, or their attorneys, shall alternately strike, until there shall be but twelve left, which shall constitute the jury to try the case or issue. In all cases the plaintiff shall have the first strike, and, in all civil cases hereafter tried in the Courts of Common Pleas of this State, any party shall have the right to demand a panel of twenty competent and impartial jurors from which to strike a jury. When the list aforesaid is prepared by the Clerk and presented to the parties, or their attorneys, objection for cause must be made before striking, and, if any objections are sustained, the Clerk must fill up the list before the same is stricken: *Provided*, That after the jury has been struck, as herein provided, it be discovered that any one or more of the jurors whose name remain upon the jury list are disqualified for any cause, the Clerk shall furnish the parties, or their attorneys, with an additional list of three times as many jurors as may be found to be disqualified, to be drawn as the first list was drawn, from which the parties, or their attorneys, shall alternately strike, until there shall be left the number necessary to empanel the panel. Should the jury, charged with any case, be delayed in rendering their verdict, so that they could not be present to be drawn from in making the list to form a second jury, then the Clerk shall present to the parties, or their attorneys, a list containing the names of

Empanelling jurors in Court of Common Pleas.

Civ. '02, § 2940. 1902, XXIII, 1069. 1904, XXIV, 413. 1909, XXVI, 48.

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twenty jurors to be drawn by the Clerk from the remaining jurors in the same manner as provided in this Section from which list the parties, or their attorneys, shall alternately strike, as hereinbefore provided, until twelve are left, which shall constitute the jury. In all cases of default where it may be necessary to have the verdict of a jury, or in the trial of cases when the parties, or their attorneys, shall waive the right to strike a jury, the Clerk shall, under the direction of the Judge, draw and empanel a jury, who shall pass upon such matters as may be submitted to them in default cases, or the trial of such cases, when the parties have waived the right to strike the jury, as stated in this Section.

Senterfelt v. Shealey, 71 S. C., 259; 51 S. E., 142.

How foreman
of jury selec-
ted.

Civ. '02, §
2941. 1905,
XXIV, 846.

When petit
jurors may be
discharged.

Civ. '02, §
2942.

Sec. 3710. The foreman of each jury, after being thus empanelled, may be appointed by the Court, or the jury may retire and choose their foreman.

Sec. 3711. All jurors summoned to serve at any term of the Courts of General Sessions or Common Pleas may be held beyond the period for which they were summoned until all cases in both of said Courts to be tried by jury are disposed of, or until another jury shall have been empanelled to try such cases: *Provided*, That nothing contained in this Section shall apply to Courts of General Sessions and Common Pleas for York County.

ARTICLE III.

OBJECTION TO JURORS—VERDICT.

SEC.

3712. Jurors may be examined by the Court; if not indifferent may be set aside.

3713. In penal actions, liability to pay taxes no objection.

3714. Objection must be taken before trial.

SEC.

3715. Irregularity in venire, drawing, &c., not to affect verdict, except in certain cases.

3716. Verdict may be set aside when treat or gratuity given to jury by party.

3717. Jury failing to agree, court to be pursued.

Section 3712. The Court shall, on motion of either party in suit, examine, on oath, any person who is called as a juror therein, to know whether he is related to either

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Jurors may
be examined
by the Court;
if not indif-
ferent may be
set aside.Civ. '02, §
2944.

party, or has any interest in the cause, or has expressed or formed any opinion, or is sensible of any bias or prejudice therein, and the party objecting to the juror may introduce any other competent evidence in support of the objection. If it appears to the Court that the juror is not indifferent in the cause, he shall be placed aside as to the trial of that cause, and another shall be called.

Objection on account of relationship to parties litigant within sixth degree.—State v. Jones, 43 S. C., 91; 20 S. E., 905; State v. Murphy, 48 S. C., 1; 25 S. E., 43; State v. Brock, 61 S. C., 141; 39 S. E., 359; State v. Merriman, 34 S. C., 16; 12 S. E., 619. Objection on account of disqualification, burden of proof.—State v. Weaver, 58 S. C., 106; 36 S. E., 499. Judge determines what questions to ask.—State v. Nance, 25 S. C., 168. May be rejected because of formation of opinion before hearing.—Sims v. Jones, 43 S. C., 91; 20 S. E., 905. When such objection is insufficient.—State v. Summers, 36 S. C., 479; 15 S. E., 369; State v. James, 34 S. C., 49, 579; 13 S. E., 325; 12 S. E., 657. Surety on recognizance rejected.—State v. Prater, 26 S. C., 198, 613; 2 S. E., 108. Opposition to capital punishment.—State v. James, *supra*; State v. McIntosh, 39 S. C., 97; 17 S. E., 446.

Second cousins are related within sixth degree.—Clinton v. Leake, 71 S. C., 22; 50 S. E., 541; State v. Byrd, 72 S. C., 104; 51 S. E., 542. Examination of witness to contradict juror on *voire dire*.—State v. Johnson, 74 S. C., 401; 54 S. E., 601. Juror on former trial; waiver by failure to object.—State v. Langford, 74 S. C., 460; 53 S. E., 120. See 80 S. C., 46.

Objection to grand juror on account of relationship.—State v. Perry, 73 S. C., 199; 53 S. C., 169.

Terms are mandatory.—Robinson v. Howell, 66 S. C., 326; 44 S. C., 933; Senterfelt v. Shealy, 71 S. C., 259; 51 S. E., 142; State v. Henderson, 73 S. C., 201; 53 S. E., 170. Party objecting on ground of relationship must use diligence to ascertain relationship before trial.—Blassingame v. City of Laurens, 80 S. C., 38; 61 S. E., 96.

Sec. 3713. In indictments and penal actions for the recovery of a sum of money, or other thing forfeited, it shall not be a cause of challenge to a juror that he is liable to pay taxes in any County, city or town which may be benefited by such recovery.

In penal ac-
tions, liability
to pay taxes
no objection.Civ. '02, §
2945.

Sec. 3714. All objections to jurors called to try prosecutions, or actions, or issues, or questions arising out of actions or special proceedings in the various Courts of this State, if not made before the juror is empanelled for or charged with the trial of such prosecution, or action, or issue, or question arising out of actions or special proceedings, shall be deemed waived; and if made thereafter shall be of none effect.

When objec-
tions to jurors
must be made.Civ. '02, §
2946.

State v. Quarrel, 2 Bay, 150; Pearson v. Wightman, 1 Mill., 336; State v. Fisher, 2 N. & McC., 261; State v. Billis, 2 McC., 12; State v. Slock, 1 Ball., 330; State v. Williams, 2 Hill., 381; State v. Blackledge, 7 Rich., 327; State v. Stephens, 11 S. C., 319; State v. Gill, 14 S. C., 410; State v. Clyburn, 16 S. C., 375; Todd v. Gray, 16 S. C., 635; State v. Anderson, 26 S. C., 599;

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2 S. E., 690. The Court will not grant such leave unless it appears that the party has been prejudiced by such omission.—State v. Stephens, 11 S. C., 319. State v. Gill, 14 S. C., 410. Where party objects to juror and the Court overrules the objection and the party completes his jury without exhausting his right of challenge, the error of the Court, if any, is cured.—State v. Price, 10 Rich., 356; State v. McQuaige, 5 S. C., 431; State v. Gill, 14 S. C., 412. State v. Dodson, 16 S. C., 460; State v. Anderson, 26 S. C., 599; 2 S. E., 636. Does not apply to grand jurors.—State v. Boyd, 56 S. E., 382; 34 S. E., 661. Where objection was not known before trial, it may be made after verdict.—Garrett v. Weinberg, 54 S. C., 127; 31 S. E., 341.

Objections that *venire* was not under seal.—State v. Lazarus, 83 S. C., 215; 65 S. E., 270; State v. Langford, 74 S. C., 460; 53 S. E., 120.

Irregularity
in *venire*
drawing, &c.,
not to affect
verdict, except
in certain
cases.

Civ. '02, §
2947.

Sec. 3715. No irregularity in any writ of *venire facias*, or in the drawing, summoning, returning or empanelling of jurors, shall be sufficient to set aside the verdict, unless the party making the objection was injured by the irregularity, or unless the objection was made before the returning of the verdict.

But if such defects appear upon the record, they may be considered on motion in arrest of judgment.—State v. Stephens, 11 S. C., 319. This Section applies to grand jurors as well as petit.—State v. Blackledge, 7 Rich. 327; State v. Jeffcoat, 26 S. C., 114; 1 S. E., 440.

State v. Johnson 66 S. C., 31; State v. Edwards, 68 S. C., 318; 47 S. E. 395; State v. Smalls, 73 S. C., 516; 53 S. E., 976; State v. Lazarus, 23 S. C., 215; 65 S. E., 270; State v. Washington, 82 S. C., 341; 64 S. E., 386.

Verdict may
be set aside
when treat or
gratuity given
to juror by
party.

Civ. '02, §
2948.

Sec. 3716. If either party in a case in which a verdict is returned during the same term of the Court, before the trial, gives to any of the jurors who try the cause anything by way of treat or gratuity, the Court may, on the motion of the adverse party, set aside the verdict and award a new trial of the cause.

Misconduct—Agent of defendant treating juror.—McGill v. S. A. L. Ry. 75 S. C., 177; 55 S. E., 216.

Jury falling
to agree,
course to be
pursued.

Civ. '02, §
2949.

Sec. 3717. When a jury, after due and thorough deliberation upon any cause, return into Court without having agreed upon a verdict, the Court may state anew the evidence, or any part of it, and explain to them anew the law applicable to the case, and may send them out for further deliberation; but if they return a second time without having agreed upon a verdict, they shall not be sent out again without their own consent unless they shall ask from the Court some further explanation of the law.

Upon request coming from jury therefor, Judge may state only a part of the testimony; he did not err in refusing defendant's request to have it all read.—State v. Haines, 36 S. C., 505; 15 S. E., 555. Discretion of Court to send back to room or discharge.—State v. Stephenson, 54 S. C., 234; 32 S. E. 305. Unwarranted detention.—State v. Kelley, 46 S. C., 55; 24 S. E., 60.

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Distinguished.—State v. Rowell, 75 S. C., 494; 56 S. E., 23.

Separation of jurors during trial.—State v. Williams, 76 S. C., 135; 56 S. E., 783; State v. Rowell, 75 S. C., 494; 56 S. E., 23; McGill v. S. A. L. Ry., 75 S. C., 177; 55 S. E., 216.

ARTICLE IV.

MISCELLANEOUS PROVISIONS.

SEC.

3718. Jury may view place, property or thing in question; proviso.

3719. Penalty for non-attendance.

3720. Penalty for neglect of duty in drawing jurors.

SEC.

3721. Power of Coroners, &c., to summon jurors.

3722. Feeding of juries to be paid by the County.

Section 3718. The jury in any case may, at the request of either party, be taken to view the place or premises in question, or any property, matter, or thing, relating to the controversy between the parties, when it appears to the Court that such view is necessary to a just decision: *Provided*, The party making the motion advances a sum sufficient to pay the actual expenses of the jury and the officers who attend them in taking the view, which expenses shall be afterwards taxed like other legal costs, if the party who advanced them prevails in the suit.

Jury may view place, property or thing in question; proviso.

Civ. '02, § 2950.

No provisions for Judge to view premises.—Parrott v. Barrett, 81 S. C., 255; 54 S. E., 241; McCarley v. Glenn-Lowry Mfg. Co., 75 S. C., 390; 56 S. E., 1.

Sec. 3719. If a person duly drawn and summoned to attend as a juror in any Court neglects to attend, without sufficient excuse, he shall pay a fine not exceeding twenty dollars, which shall be imposed by the Court to which the juror was summoned, and shall be paid into the County Treasury.

Penalty for non-attendance.

Civ. '02, § 2951.

Sec. 3720. When, by neglect of any of the duties required by this Chapter to be performed by any of the officers or persons herein mentioned, the jurors to be returned from any place are not duly drawn and summoned to attend the Court, every person guilty of such neglect shall pay a fine not exceeding one hundred dollars, to be imposed by the same Court, to the use of the County in which the offence was committed.

Penalty for neglect of duty in drawing jurors.

Civ. '02, § 2952.

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Sec. 3721. Nothing contained in this Chapter shall affect the power and duty of Coroners, Clerks, or Magistrates, to summon and empanel jurors, when authorized by other provisions of law.

Civ. '02, § 2953.

Sec. 3722. Whenever any Circuit Judge shall order food to be furnished by the Sheriff to any jury charged with the consideration of a case, the expenses connected therewith shall be paid by the County Commissioners of the County in which such case is being tried, upon presentation of the bill of the Sheriff, certified as correct by the Presiding Judge.

Feeding of juries to be paid by the County.

Civ. '02, § 2954.

TITLE III.

OF REMEDIES RELATING TO REAL PROPERTY.

- CHAPTER XCVI. *Certain Proceedings by Remaindermen, Heirs, Etc.*
- CHAPTER XCVII. *Forcible Entry and Detainer, and Summary Ejectment of Trespassers.*
- CHAPTER XCVIII. *Escheats.*

CHAPTER XCVI.

Certain Proceedings by Remaindermen, Heirs, Etc.

- SEC. 3723. Remaindermen, &c., may compel guardians, &c., to produce minor, &c.
3724. If not produced, to be taken to be dead, and claimant may enter on land, &c.
3725. On affidavit that minor, &c., is beyond sea, claimant may send over persons to view such minor, &c.
3726. If it appear that infant, &c., is alive after order made, such infant, &c., may re-enter.

- SEC. 3727. Guardian to continue in possession, &c., in certain cases.
3728. Guardians, &c., holding estates after determination of life of minor, &c., adjudged trespassers.
3729. Heirs, &c., may recover damages.
3730. Right of entry not tolled by descent cast; exceptions.

Section 3723. Any person who shall have any claim or demand in or to any remainder, reversion, or expectancy in or to any estate after the death of any person within age, married woman, or any other person whatsoever, upon affidavit made by the person so claiming such estate, of his or her title, and that he or she has cause to believe that such minor, married woman, or other person is dead, and that his or her death is concealed by such guardian, trustee, husband, or any other person, may, once a year, apply to the Court of Common Pleas for an order requiring such

Remaindermen, &c., may compel guardians, &c., to produce the minor, &c.

Civ. '02, § 2955.

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guardian, trustee, husband, or other person concealing, or suspected to conceal, the death of such person, at such time and place as the said Court shall direct, on due service of such order, to produce and show to such person and persons (not exceeding two) as shall, in such order, be named by the party prosecuting such order, such minor, married woman, or other person as aforesaid.

If not produced, to be taken to be dead, and claimant may enter on land, &c.

Civ. '02, § 2956.

Sec. 3724. If the person proceeded against shall fail to produce such infant, married woman, or other person according to the direction made, the Court may appoint Commissioners, before whom such infant, married woman,

or other person, may be produced. If the said person cannot be produced, or there should be other satisfactory proof before the Commissioners of the death of such person, they shall make return of the fact on oath; and such person sought shall be taken to be dead; and any lawful claimant of any estate held by or for such person, shall be let into the possession of the same.

On affidavit that minor, &c., is beyond sea, claimant may send over persons to view such minor, &c.

Civ. '02, § 2957.

Sec. 3725. Should it appear by affidavit that the person sought is, or lately was, at some certain place beyond the limits of this State, the Court may direct the Commissioners to make personal search at the place or places named: *Provided*, That the person prosecuting such order shall provide the necessary expenses of such search. And upon return of the Commissioners, duly made and filed, of their failure to view such person alleged, concealed or absent, or other satisfactory proof of death, such person shall be taken to be dead; and any lawful claimant of any estate held by or for such person, shall be let into possession of the same.

If it appear that infant, &c., is alive after order made, such infant, &c., may re-enter.

Civ. '02, § 2958.

Sec. 3726. In case it should afterwards appear that such concealed or absent person sought was living at the time any proceedings under the provisions of this Chapter were had, such person, or any and all persons claiming title under or through such person concealed or absent, may re-enter upon said estate, and may have their action of damages for the rents and profits during eviction.

Guardian to continue in possession &c., in certain cases.

Civ. '02, § 2959.

Sec. 3727. Nothing herein contained shall prevent any guardian, husband, or trustee, from showing by satisfactory proof that the infant, married woman, or other person sought, was actually living at the time proceedings for a view of such person were commenced.

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Sec. 3728. Every person who, as guardian or trustee for any infant, and every other person having any estate determinable upon any life or lives, who, after the determination of such particular estate or interests, without the express consent of him, her, or them, who are, or shall be, next and immediately entitled upon and after the determination of such particular estates or interests, shall hold over and continue in possession of any lands, tenements, or hereditaments, shall be, and are hereby, adjudged to be trespassers.

G u a r d i a n s,
&c., holding
estates after
determination
of life of mi-
nor, &c., ad-
judged tres-
passers.

Civ. '02, §
2960.

Sec. 3729. Every person and persons, his, her, and their executors and administrators, who are, or shall be, entitled to any such lands, tenements, and hereditaments, upon or after the determination of such particular estates or interests, shall and may recover in damages against every such person or persons so holding over as aforesaid, and against his, her, or their executors or administrators, the full value of the profits received during such wrongful possession as aforesaid.

H e i r s, &c.,
may recover
damages.

Civ. '02, §
2961.

Sec. 3730. The dying of any disseizor, seized of or in any lands, tenements, or other hereditaments, having no right or title therein, shall not be taken or deemed any such descent as to take away the entry of any such person or persons, or their heirs, which, at the time of the same descent, had good and lawful title of entry into said lands, tenements, or hereditaments, except such disseizor has had the peaceable possession of such lands, tenements, or hereditaments, for the space of ten years next after the disseizin therein by him committed, without entry or continual claim by or of such person or persons as have lawful title thereunto.

R i g h t o f
e n t r y n o t
t a k e n a w a y
f r o m l a w f u l
h e i r s, &c., b y
r e a s o n o f a n y
d i s s e i z o r d y-
i n g s e i z e d, &c.

Civ. '02, §
2962.

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CHAPTER XCVII.

Forcible Entry and Detainer, and Summary Ejectment of Trespassers.

ARTICLE 1. Forcible Entry and Detainer.

ARTICLE 2. Summary Ejectment of Trespassers.

ARTICLE I.

FORCIBLE ENTRY AND DETAINER.

SEC.

3731. None but lawful and peaceable entry to be made.

3732. Magistrates to have jurisdiction of forcible entries and detainers.

3733. To put party ousted in possession.

3734. Feoffments made by persons wrongfully in possession void.

3735. Action may be had against person wrongfully dispossessing.

SEC.

3736. In case of recovery, plaintiff to have treble damages.

3737. Proceedings in cases of forcible entry, &c.

3738. Restitution of possession shall be given, to avoid entries with force, in estates for years, &c.

3739. Not to affect tenants who have held by force three years.

None but lawful and peaceable entry to be made.

Civ. '02, § 2963.

Section 3731. No person shall make any entry into any lands and tenements, but in case where entry is given by law; and in such case not with strong hand, nor with multitude of people, but only in peaceable and easy manner.

State v. Selvin, 1 Brev., 119; State v. Huntington, 3 Brev., 111.

Magistrates to have jurisdiction of forcible entries and detainers.

Civ. '02, § 2964.

Sec. 3732. Any two Magistrates of the County where such lands and tenements may be situated, shall have authority and power to inquire by the people of the same County, as well of them that make forcible entries in lands and tenements, as of them which hold the same with force.

State v. Huntington, 3 Brev., 111. It is not necessary to constitute a forcible entry that it should be made by a multitude.—State v. Burt, 3 Brev., 42. Any actual unlawful taking possession is a forcible entry.—Id.

Sec. 3733. If it be found, before any of them, that any do contrary to this Chapter, then the said Magistrates shall

ause to be reseized the lands and tenements so entered or holden, as aforesaid, and shall put the party so put out in full possession of the same lands and tenements so entered or holden, as before.

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To put party ousted in possession.

Civ. '02, § 2965.

Restitution should not be made until the issue as to the force, if made, is tried.—State v. Dayley, 2 N. & McC., 121.

Sec. 3734. If any person, after such entry into lands or tenements holden with force, make a feoffment or other discontinuance to any person, to have maintenance, or to take away and defraud the possessor of his recovery in any wise, and afterwards in an action thereof to be taken or pursued before Magistrates by due inquiry thereof, such feoffments and discontinuances are duly proved, to be made for maintenance as aforesaid, then such feoffments or other discontinuances shall be void, frustrate, and of none effect.

Feoffments made by person wrongfully in possession, void.

Civ. '02, § 2966.

Sec. 3735. If any person be put out or disseized of any lands or tenements in forcible manner, or put out peaceably, and be afterwards holden out with strong hand, or, after such entry, any feoffment or discontinuance in any wise thereof be made, to defraud and take away the right of the possessor, the party grieved in this behalf shall have an action against such disseizor.

Action may be had against person wrongfully disseizing.

Civ. '02, § 2967.

DeLaine v. Alderman, 31 S. C., 267; 9 S. E., 950.

Sec. 3736. If the party grieved recover in such action, and it be found by verdict, or in other manner by due form of law, that the party defendant entered with force into the lands and tenements, or, after his entry, did hold them with force, the plaintiff shall recover treble damages against the defendant.

In case of recovery, plaintiff to have treble damages.

Civ. '02, § 2968.

Sec. 3737. The forms and proceedings before Magistrates in cases of forcible entry and detainer, shall be the same as are prescribed by law in cases where tenants hold over after the expiration of their leases.

Proceedings in cases of forcible entry, &c., same as in cases of tenants holding over.

Sec. 3738. Any two Magistrates, authorized and enabled, upon inquiry, to give restitution of possession unto tenants of any estate of freehold of their lands or tenements which shall be entered upon with force, or from them withholden with force, shall have the like and the same authority and ability (upon indictment of such forcible entries or forcible withholdings before them duly found) to give like resti-

Civ. '02, § 2969.

Restitution of possession shall be given to avoid entries with force, in estates for years, &c.

Civ. '02, § 2970.

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tution of possession unto tenants for term of years, of lands or tenements by them so holden, which shall be entered upon by force, or holden from them by force.

Not to affect tenants who have held by force three years.

Civ. '02, § 2971.

Sec. 3739. They which keep their possessions with force in any lands and tenements whereof they or their ancestors, or they whose estate they have in such lands and tenements, have continued their possessions in the same by three years or more, shall not be endangered by force of this Chapter.

ARTICLE II.

SUMMARY EJECTMENT OF TRESPASSERS.

SEC.

3740. Proceedings before Magistrate to eject trespasser; proviso.

SEC.

3741. Fees of Magistrate and Sheriff or Constable; by whom paid; payable in advance
3742. Right of appeal; suspension of warrant; injunction.

Duty of Magistrate in cases of trespasses.

Civ. '02, § 2972.

Proviso.

Section 3740. If any person shall have gone into or shall hereafter go into possession of any lands or tenements of another without his consent or without warrant of law, it shall be lawful for the owner of the land so trespassed upon to apply to any Magistrate to serve a notice on such trespasser to quit the premises; and if after the expiration of five days from the personal service of such notice such trespasser refuses or neglects to quit, it shall then be the duty of such Magistrate to issue his warrant to any Sheriff or Constable, requiring him forthwith to eject such trespasser, using such force as may be necessary: *Provided, however,* That if the person in possession shall, before the expiration of the said five days, appear before such Magistrate and satisfy him that he has a *bona fide* color of claim to the possession of such premises, and enter into bond to the person claiming the land, with good and sufficient security, to be approved by the Magistrate, conditioned for the payment of all such costs and expenses as the person claiming to be the owner of the land may incur in the successful establishment of his claim by any of the modes of proceeding now provided by law, the said Magistrate shall not issue his warrant as aforesaid.

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May be maintained by agent of owner.—Bradley v. Bell, 34 S. C., 107; 12 S. E., 1071.

Mandamus refused against Magistrate.—Richland Drug Co. v. Moorman, 71 S. C., 236; 50 S. E., 792. Service of rule to show cause based on affidavit sufficient without formal notice.—Cotton v. Johnson, 71 S. C., 413; 51 S. E., 245; Lee v. Chaplin, 70 S. C., 561; 50 S. E., 501. *Certiorari* to review proceedings under this Section. Jurisdiction of Magistrate sustained.—Lynch v. Ball, 79 S. C., 243; 60 S. E., 691.

Sec. 3741. The Magistrate shall be entitled to demand and receive from the person applying for such warrant a fee of two dollars before issuing the same, and the Sheriff or Constable shall in like manner be entitled to demand and receive a fee of two dollars and mileage before executing such warrant from the person applying for the same.

Fee of Magistrate and Sheriff or Constable.

Civ. '02, § 2973.

Sec. 3742. Either party to these proceedings shall have the right of appeal. The Magistrate shall not issue his warrant until the expiration of five days after he announces his decision, and in the meantime the defendant may apply for an injunction, as in other cases, restraining the execution of such warrant pending the determination of his appeal by the Circuit Court.

Either party right of appeal.

Civ. '02, § 2974.

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CHAPTER XCVIII.

Escheats.

SEC.

3743. Secretary of State to act as escheator.
3744. When escheator may buy for Sinking Fund Commission.
3745. Escheator to make annual report.
3746. Property escheated prior to March 9th, 1896, not affected.
3747. Escheator to notify Circuit Judge of any supposed escheated lands.
3748. Judge to cause jury to make inquest; same to be certified to Escheator; who records same and returns original to Court.
3749. On return of inquest, lands to be advertised for six months, with name of person last seized, &c.
3750. If not claimed for twelve months after advertising, lands to be escheated and sold.
3751. Sale, how to be advertised; terms of.
3752. May be sold in parcels; proceeds to be paid into Treasury.
3753. Persons making good title within five years to have compensation.
3754. Lands to be committed to claimant on his giving security, &c.

SEC.

3755. No claimant appearing. Escheator to rent lands until sale; damages where production is without probable cause.
3756. State not precluded from inquest of lands escheated by possession, grant, &c. exception.
3757. Escheator to sue for personal property in hands of executors, &c.; when; proceeds to be paid into Treasury.
3758. Treasurer to advertise same for six months; if not claimed in two years to vest in State.
3759. Rights of persons under disabilities not affected until three years after removal thereof.
3760. This Chapter to be observed where persons die without heirs, &c.
3761. Estates of felons to devolve to their representatives.
3762. Not to contravene any treaty, &c., between United States and foreign powers.
3763. Commissions of Escheators.
3764. Escheators not to purchase escheated lands; penalty.
3765. Penalty for neglect of duty, &c.

The Secretary of State as Escheator.

To act under the direction of the Sinking Fund Commission.

Civ. '02, § 2975.

Section 3743. The duties of escheator are devolved hereafter upon the Secretary of State as agent of the Board of Commissioners of the Sinking Fund, and as escheator the Secretary of State shall act under the direction and control of the Board of Commissioners of the Sinking Fund, and under the direction of said Board may use such of the funds and the services of such of the sub-agents of the said Board as in their discretion may be necessary to efficiency in discovering, renting, litigating and realizing money from

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escheated lands under existing law, and shall turn over to the State Treasurer the net proceeds of escheats after deducting and retaining therefrom for the benefit of the Sinking Fund so much money as in their opinion will reimburse the Sinking Fund for moneys and agents' services used and advanced as aforesaid, and also any other expense necessarily incurred in executing the law and protecting the interest of the State in matter of escheats: *Provided*, That costs and expenses incurred as aforesaid (on account of agents' services, money advanced or otherwise) in one case may be deducted and retained from the proceeds of any other case of escheatment in the discretion of the Commissioners of the Sinking Fund.

In cases where the process of escheatment is now in progress the Secretary of State, as agent as aforesaid, is authorized to call upon escheators heretofore having case in charge for a full and detailed report and account of the case, with authority, under direction of the Board of Commissioners of the Sinking Fund, either to require said former escheator, under direction of the Secretary of State, as agent as aforesaid, to continue and conclude the process at commissions heretofore allowed said former escheator, or in the discretion of the said Board to require said former escheator to forthwith turn over the case and all funds in his hands (whether derived from said incomplete case or from any former or other case of escheatment) to the Secretary of State, as agent aforesaid; and when such incomplete case is finally settled, the Secretary of State, as agent as aforesaid, shall allow and pay to the said former escheator, out of the funds derived therefrom, such a proportion of the commissions heretofore allowed by law to escheators as, in the judgment of the Board of Commissioners of the Sinking Fund, said escheator is entitled to under the circumstances of the case.

Escheator to call upon those who have had escheated property in charge for a report &c.

Escheat proceedings being converted into proceedings to marshal assets.—
Ex re Bugg, 71 S. C., 439; 51 S. E., 263.

Sec. 3744. At any sale of escheated property, if, in his judgment, the property is being sold at a sacrifice, the Secretary of State shall be authorized to buy the land in for the Commissioners of the Sinking Fund (or to cause the

When Escheator may buy for Sinking Fund Commission.

Civ. '02, § 2976.

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same to be bid in), and upon payment of the costs accrued thereon to cause the title deed to be made therefor as escheated property to the Commissioners of the Sinking Fund, who shall rent or sell the said property in such manner, at such time and upon such terms as, in their judgment, shall be for the best interests of the State, and apply the proceeds thereof as above directed.

Escheated
property not
affected.

Civ. '02, §
2977.

Sec. 3745. A report shall be made annually by the Secretary of State, to be included in his annual report, showing the receipts and payments under the provisions of this Article in each case of escheat, with the items thereof; and in case any escheated property be purchased by said Commissioners, their annual report shall show all resales of such property, and all income, rents and profits derived from such property while held by said Commissioners.

Escheated
property not
affected.

Civ. '02, §
2978.

Sec. 3746. Nothing in the three preceding Sections contained shall apply to any property escheated prior to the ninth day of March, 1896, which by law was escheated for the benefit of any special purpose or object.

As to disposition of proceeds of escheated property see Const., Art. XI, Sec. 11; Art. XVII., Sec. 11.

Each escheator
to notify
Judge of Circuit
Court of any
supposed
escheated
lands.

Civ. '02, §
2979.

Sec. 3747. The Escheator, as hereinbefore provided for, in every case where, on his knowledge or belief, or on the information of another, that certain lands in his respective Counties have been escheated to the State by the death of the person last seized in fee simple, either in law or in fact, without leaving any person who can lawfully claim such lands, either by purchase or descent, from such former proprietor, shall, on such knowledge or information, or the order of any Court of record, issue his notification of such supposed escheated lands to one of the Judges of the Circuit Court, at least two months previous to the next session of the said Court to be held in the County where such lands lie.

Lands shall not escheat where there is one capable of inheriting.—*Scott v. Cohen*, 2 N. & McC., 293. Citizens, appointees of an alien, holding under deed with power of appointment, made before office found, take the property.—*Escheator v. Smith*, 4 McC., 452. The Act of 1787 construed.—*McCaw v. Galbraith*, 7 Rich., 74. As to service of notice.—*In re Malone*, 21 S. C. 435.

Sec. 3748. The Judge presiding at such Court shall cause the jury (being first duly sworn) to proceed and make a

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ue inquest of all such supposed escheated lands, which
y the Escheator shall be subjected to their investigation,
nd a true verdict make thereon; whereupon the Judge of the
ourt aforesaid shall certify the same, under his hand and
he seal of the Court, to the Escheator, who is hereby
rdered and directed to record the same in a book to be
ept by him for that purpose, and shall return the original
within two months after the date thereof into the office of
he Clerk of the said Court, to be there filed and kept as
record thereof.

Judge to
cause jury to
make inquest;
same to be
certified to
escheator; es-
cheator to re-
cord same,
and return
original to
Court.

Civ. '02, §
2980.

Sec. 3749. On the return of any inquest of supposed
scheated lands by the Escheator into the office of the Clerk
of the County where the lands lie, he shall thereupon cause
to be advertised, in a newspaper of the County, or other
nearest gazette, the first week in every month, for six
months, a notice containing a particular description of the
lands, the name of the person last seized, and the supposed
time of his or her death, together with the part of the world
in which he or she was supposed to have been born, and
requiring his or her heirs, or others claiming under him or
her, to appear and make claim.

On return of
inquest lands
to be adver-
tised for six
months, with
name of per-
son last seiz-
ed, &c.

Civ. '02, §
2981.

Sec. 3750. If no person shall appear and claim the same
within twelve months after the expiration of the time pre-
scribed for advertising, the said Clerk shall issue process,
to be signed by the Judge of the Circuit Court of the said
County, to the Escheator, pronouncing the said lands
escheated and vested according to law, and directing him
forthwith to sell and convey the same, upon the usual
notice.

If not claim-
ed for twelve
months after
advertising,
lands to be
escheated and
sold.

Civ. '02, §
2982.

Title vests in the State at death of owner; it is vested by this judgment
of the Court.—City Council v. Large, 1 Mill., 454; Harlock v. Jackson, 3
Brev., 254.

Sec. 3751. As soon as the Escheator shall receive the
process in the preceding Section mentioned, he shall adver-
tise the sale of said lands in a newspaper of the County, or
other nearest gazette, and, also, in the most public places
of the County in which the lands lie (giving six weeks'
public notice), on a credit of twelve months, payable in
lawful money; and shall, moreover, take good and sufficient
surety, and a mortgage of the premises, before the title
shall be altered or changed.

Sales to be
advertised for
six weeks.

Civ. '02, §
2983.

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Bodden v. Spelgner, 2 Brev., 321; *Ex parte* Malone, 21 S. C., 435.

Lands may be divided into smaller tracts; proceeds of sale to be paid into Treasury.

Civ. '02, § 2984.

Sec. 3752. Where the lands shall exceed six hundred acres, and can be divided into smaller tracts with advantage to the State in the sale thereof, the Escheator shall cause the same to be divided in such manner as shall be most beneficial to the State; and the proceeds arising from such sale shall be forthwith paid into the public treasury whenever the same shall become due and recovered.

Persons making good title within five years to have compensation.

Civ. '02, § 2985.

Sec. 3753. If any person shall appear, within five years, and make good title to such lands, in the Court of Common Pleas, on an issue tried, he shall forthwith receive adequate compensation.

Ex parte Williams, 13 Rich., 77.

Lands to be committed to claimant on his giving security, &c.

Civ. '02, § 2986.

Sec. 3754. Any person, without delay, shall be heard on a traverse, in the Court of Common Pleas, on a petition setting forth his rights, and the said lands shall be committed to him, if he shall show good evidence of his title, to hold until the right shall be found and discussed for the State and the claimant; such claimant finding sufficient security to prosecute his suit to effect, and without delay, and to render to the State the yearly value of such lands, if the right be found for the State.

This Section does not give traverses of escheat precedence on docket.—*Lance v. Dobson*, Riley, 301. Each traverse is a separate case and should be tried separately.—*McCaw v. Galbraith*, 7 Rich., 74; *In re* Malone, 21 S. C. 435.

Where no claimant appears, escheators to rent lands, &c.; escheator liable for damages if he prosecutes without probable cause.

Civ. '02, § 2987.

Sec. 3755. Where no claimant shall appear to make title as aforesaid, the Escheators shall rent out the escheated lands, if the same can be done with advantage to the State, until the process of escheat shall be concluded and the lands sold: *Provided, nevertheless*, That if any suit for property supposed to be escheated shall be prosecuted by any Escheator, and the jury before whom such trial shall be had shall think there is no probable case, such jury are authorized and required to assess and award to the party grieved such damages as they shall think proper.

Sec. 3756. The State shall not be precluded by possession, grant, conveyance, or any other cause or title, from making inquest and sale of all such lands as have heretofore escheated to the State by the death of the person last seized

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hereof; any law, custom or usage to the contrary notwithstanding: *Provided*, That no lands claimed under grant, or under an actual possession for five years, prior to the fourth of July, one thousand seven hundred and seventy-six, shall be affected by this Section.

State not precluded from making inquest, &c.; not to affect lands claimed under grants, &c., for five years prior to July 4, 1776.

Statute of Limitations cannot bar an escheat.—Harlock v. Jackson, 3 Brev., 254. But escheat cannot operate against one who has acquired title by possession before death of person in whose name the property is escheated.—Wilkins v. Tart, 3 McC., 518. A grant of five years' previous possession before 4th July, 1776, exempts from escheat.—Warwick v. Wightman, 1 Brev., 331; Wilkins v. Tart, 3 McC., 518.

Civ. '02, § 2988.

Sec. 3757. Where any moneys or other personal estate shall be found in the hands of an executor or administrator, being the property of any person heretofore deceased, or hereafter dying, and leaving no person entitled to claim, and without making disposition of the same, the Escheator of the County where such chattels shall be found, or the Attorney-General, on behalf of the State, shall and may sue for, recover, and pay the same into the treasury of the State.

Personal estate to which there is no heir, shall revert to the State.

Civ. '02, § 2989.

The term escheat applies to personalty as well as realty.—Howard v. Schmidt, Rich. Eq. Ca., 452. The escheator stands in place of distributees, and can only bring such action against the legal representative of the person whose property is escheated, and not against the administrator of his administrator.—Gill v. Douglass, 2 Ball., 387. Such administrator is liable for interest on fund during litigation.—Howard v. Schmidt, Rich. Eq. Ca., 452.

Sec. 3758. The State Treasurer, for the time being, shall advertise such chattels in some newspaper, once in every month, for six months, in like manner as lands are hereinbefore directed to be advertised; and if no person shall appear and make good title to such personal estate within two years thereafter, other than as executor or administrator, or their legal representatives, then such personal estate shall become vested in and applied to the use of the State.

State Treasurer to advertise same for six months; if not claimed in two years, to vest in State.

Civ. '02, § 2990.

Sec. 3759. Nothing herein contained shall prejudice the rights of individuals having legal title, and who may be under the disabilities of infancy, coverture, lunacy, or beyond the limits of the United States, until three years after such disabilities shall be removed.

Rights of persons under disabilities reserved for three years after their removal.

Civ. '02, § 2991.

Applied.—*Ex parte Williams*, 13 Rich., 77. This Section saves only the right to traverse an inquisition of escheat; it cannot divest a title acquired by possession under Section 3756, or under Act 1712.—Warnock v. Wightman, 1 Brev., 331.

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This Chapter
to be observed
where persons
die without
heirs.

Civ. '02, §
2992.

Sec. 3760. Every part of this Chapter, and the mode therein prescribed for recovering and appropriating real and personal property escheated to the State, shall be pursued and observed when any person shall hereafter die without heir, or become divested thereof by operation of law, without leaving any legal representative.

Bodden v. Speigner, 2 Brev., 321; *In re Malone*, 21 S. C., 435.

Estates of
felons to de-
scend to their
representa-
tives.

Civ. '02, §
2993.

Sec. 3761. No property shall be vested in the State, or any inquisition had by the Escheator, where any person or persons shall have committed or may commit any felony against the State; but the said property shall descend to, and be vested in, the representatives of such person or persons.

Not to con-
travene any
treaty, &c.,
between
United States
and foreign
powers.

Civ. '02, §
2994.

Sec. 3762. Nothing in this Chapter contained shall be construed to extend to or contravene any treaty or agreement that is or may be entered into between the United States of America and any foreign prince, state, or potentate, on the subject of descents and inheritances.

Commissions
of escheators.

Civ. '02, §
2995.

Sec. 3763. Every Escheator shall, as a compensation for his trouble, cost, and charges in the discharge of his duty, be entitled to receive the commission of two and a half per cent. out of all moneys which, in virtue of this Chapter, shall be paid by him into the treasury; and where any person or persons shall appear and make title to lands or personal estate, after office found by the jury, the Court shall have power to assess such reasonable costs and charges as the Escheator has sustained in promoting the claim of the State, except in cases where he has already received his commissions.

Escheators
not to pur-
chase escheat-
ed estates;
penalty.

Civ. '02, §
2996.

Sec. 3764. No Escheator, or person acting as such, shall directly or indirectly, either by himself or any person whomsoever, purchase, or be concerned with any person or persons in purchasing any escheated lands, without being subject and liable to the payment of five thousand dollars to be sued for and recovered in any Court of record, one-half for the benefit of the informer, who shall sue for and recover the same, and the other half to be applied to the use of the State; and the said Escheator shall also be rendered incapable of holding or exercising any office of trust or emolument therein.

A. D. 1912.Penalty for
neglect.

Civ. '02, §
2997.

Sec. 3765. If any Escheator shall fail to do his duty, as herein directed, on behalf of the State, and any loss or damage shall accrue to the State by his misconduct and fraudulent practices, he shall be responsible for all such loss or damage, and the Court of Common Pleas shall have power and authority to order a prosecution in the name of the State; and the jury shall try the fact, and assess the damages; and, upon conviction, such Escheator or Escheators shall be incapable forever thereafter from holding any place of trust or profit within this State.

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TITLE IV.

OF THE WRIT OF MANDAMUS AND PROCEEDINGS IN SPECIAL CASES.

CHAPTER XCIX. *The Writ of Mandamus.*CHAPTER C. *Chattel Mortgages and Liens.*

CHAPTER XCIX.

The Writ of Mandamus.

SEC.

3766. Return to be made to first writ; Court may allow time.

3767. When return is made, the prosecutor may plead, &c.

SEC.

3768. Place of trial; damages and costs; peremptory writ.

3769. Respondent not liable in other actions, if damages recovered.

Returns to be made to the first writ. Court may allow time to make return to *mandamus*.

Civ. '02, § 2998.

Section 3766. Where any writ of *mandamus* shall issue out of any of the Courts of this State, such person or persons as are required to make a return writ of *mandamus* shall make his or their return to the first writ of *mandamus*: *Provided*, That it shall and may be lawful to and for the said Courts, or the Judges thereof, to allow such person or persons, respectively, to whom any writ of *mandamus* shall be directed, such convenient time to make a return, plead, reply, rejoin, or demur, as to them shall seem just and reasonable.

Issue of fact may be referred.—State v. Columbia, 22 S. C., 583.

Mandamus.—State v. Durant, 71 S. C., 311; 51 S. E., 146. Judge cannot hear issues in mandamus in any other County than the one in which defendant resides.—State *ex rel.* Kirven v. Scarborough, 70 S. C., 288; 49 S. E. 860; LaMotte v. Smith, 50 S. C., 558. Mandamus not remedy for County Board of Education, refusal to issue certificate to teacher.—*Ex parte* Greenville College for Women v. County Board of Education, 75 S. C., 93; 55 S. E. 132. Mandamus will not issue to compel an officer to do an act which he cannot do under law unless the court set aside an election already held.—Wilson v. Cox, 73 S. C., 398; 53 S. E., 613. Mandamus against State Treasurer will be to compel exchange of certificate for bond. Not suit against State.—Ehrlich v. Jennings, 78 S. C., 269; 58 S. E., 922. An action for

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mandamus to enforce a private right may be brought in the name of the private citizen.—State *ex rel.* Watts v. Cain, 78 S. C., 348; 58 S. E., 937.

Mandamus against State officers to compel compliance with Appropriation Act.—Lyon, Attorney General, v. State Dispensary Commission, 79 S. C., 316; 30 S. E., 928. Mandamus to compel performance of official act forbidden by an unconstitutional statute.—State *ex rel.* Fooshe v. Burley, 80 S. C., 127; 61 S. E., 255.

No funds available, a defense in mandamus.—*Ib.*, 80 S. C., 131. Mandamus refused, duty being discretionary.—Landford v. Drummond, 81 S. C., 174; 62 S. E., 10. Mandamus and *certiorari* against Executive Committee of Democratic Party.—Holt v. Settlemyer, 79 S. C., 263; 60 S. E., 659; Moore v. Griffin, 81 S. C., 393; 62 S. E., 545. Mandamus against State Board of Pharmaceutical Examiners to compel issuance of license.—State *ex rel.* Mauldin v. Matthews, 81 S. C., 414; 62 S. C., 695. Distinguished in *Ex parte* Hollis, 82 S. C., 230; 64 S. E., 232. Mandamus to compel payment of claim against County.—State *ex rel.* People's Bank of Greenville v. Goodwyn, County Supervisor, 81 S. C., 419; 62 S. E., 1100. Mandamus to compel water company to furnish customer. (Right to cut off service considered).—Poole v. Paris Mountain Water Co., 81 S. C., 438; 62 S. E., 874. Mandamus to compel member Board of Canvassers to act.—State v. Jones, 83 S. C., 432; 65 S. E., 444. Mandamus to compel County Chairman to put name on party ticket.—Fooshe v. McDonald, 82 S. C., 22; 63 S. E., 3. Mandamus against Governor refused.—Brown v. Ansel, 82 S. C., 141; 63 S. E., 449; Kirven State *ex rel.* v. Scarborough, 70 S. C., 288; 49 S. E., 860.

Sec. 3767. As often as in any of the cases aforesaid any writ of *mandamus* shall issue out of any of the said Courts, and a return shall be made thereto, it shall and may be lawful to and for the person or persons suing or prosecuting such writ of *mandamus* to plead to or traverse all or any the material facts contained within the said return; to which the person or persons making such return; shall reply, take issue, or demur; and such further proceedings, and in such manner, shall be had therein as may be necessary for the determination thereof.

Sec. 3768. If any issue shall be joined on such proceedings, the person or persons suing such writ shall and may try the same in such place as a civil action should or might have been tried; and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them upon a demurrer, or by default, or for want of a replication or other pleading, he or they shall recover his or their damages and costs in such manner as he or they might have done in a civil action; and a peremptory writ of *mandamus* shall be granted without delay for him or them for whom judgment shall be given, as might have been if such return had been adjudged insufficient; and in case judgment shall be given for the person or persons

When return
is made, the
prosecutor
may plead, &c.

Civ. '02, §
2999.

Place of trial,
damages and
costs.

Civ. '02, §
3000.

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making such return to such writ, he or they shall recover his or their costs of suit.

Issue must be tried in County where respondent resides.—*State ex n. LaMotte v. Smith*, 50 S. C., 558; 27 S. E., 933. The term "civil action" means "action on the case" under the practice before the Code, and the costs here allowed are such as were allowed therein, and not those in criminal actions under the Code.—*State v. Treasurer*, 8 S. C., 40. Where the issue is tried by the Court no costs are allowed.—*Id.*; *State v. County Commissioners*, 18 S. C., 597.

Not liable in
other actions,
if damages
are recovered,
&c.

Civ. '02, §
3001.

Sec. 3769. If any damages shall be recovered by virtue of this Chapter against any such person or persons making return to such writ, as aforesaid, he or they shall not be liable to be sued in any other action or suit, for making such return.

CHAPTER C.

Chattel Mortgages and Liens.

- ARTICLE 1. Chattel Mortgages.
- ARTICLE 2. Liens on Lands and Buildings for Labor and Materials.
- ARTICLE 3. Liens on Ships and Vessels for Labor and Materials.
- ARTICLE 4. Liens on Railroads for Labor and Materials.
- ARTICLE 5. Agricultural Liens.
- ARTICLE 6. Liens of Owners of Stock Animals.
- ARTICLE 7. Liens of Employees in Factories.

ARTICLE I.

CHATTEL MORTGAGES.

SEC.	SEC.
3770. Description in.	3775. Indulgence of mortgagor not to defeat lien.
3771. Time for redemption of goods and chattels sold by way of mortgage.	3776. Unlawful to make certain charges on loans under \$25.
3772. Sale under chattel mortgage, how to be advertised.	3777. No charge for examination.
3773. Mortgage of crops valid only for one year.	3778. Unlawful to take mortgage for greater amount than actually lent.
3774. Mortgagor of chattel to have right to redeem any time before sale.	3779. Contracts violating last three Acts void.

Section 3770. No chattel mortgage, except mortgages or deeds of trust covering the whole or any part of the real or personal property of a railroad company or manufacturing company, shall be valid or good to convey any interest or right whatever to the mortgagee unless the property mortgaged shall be described in writing, or typewriting, but not printing, on the face of the mortgage, nor shall any prosecution be for selling any property under the lien of such mortgage, unless the property mortgaged shall be described in writing or typewriting, but not printing, on the face of such mortgage.

Descriptions
in chattel
mortgages.
Civ. '02, §
3002. 1903,
XXIV, 99.

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As to recording and indexing see Sec. — ante. Bill of sale as security: mortgage.—Quattlebaum v. Taylor, 45 S. C., 512; 23 S. E., 617. An instrument held a lease and not mortgage.—Ludden & Bates v. Hornby, 45 S. C., 111; 22 S. E., 781. What constitutes an equitable chattel mortgage, right under.—Davis v. Childers, 45 S. C., 133; 22 S. E., 784. Provision for retention of possession by mortgagor.—Westcoat v. Crawford, 45 S. C., 189; 22 S. E., 792.

Verbal agreement to give a mortgage on chattels may create an equitable mortgage.—Creech v. Long, 72 S. C., 25; 51 S. E., 614. Manner of taking possession after breach of condition in chattel mortgage is written scope of agency of party taking possession as agent of the mortgagee, and the latter is liable for misconduct of agent, though acting contrary to his directions.—Williams v. Tolbert, 76 S. C., 211; 56 S. E., 908. Estoppel to deny validity.—Rose v. Harlee, 69 S. C., 523; 48 S. E., 541. Chattel mortgage to secure advances.—McNeil v. Conyers, 81 S. C., 571.

Time for redemption of goods or chattels sold by way of mortgage.

Civ. '02, § 3003.

Sec. 3771. In all bills of sale of any plate, gold and silver, or goods and chattels whatsoever, by way of mortgage, with right of redemption upon performance of the proviso in the said bill of sale, where the plate, gold and silver, or goods and chattels, are actually delivered unto the person to whom such bill of sale is made, and are in his actual possession, (and not a delivery or seizin in form of law only,) and shall continue in the same for the space of two years after the breach of the proviso in the said bill of sale, without redemption thereof, the said goods or chattels so sold and delivered and possessed as aforesaid, though with right or equity of redemption, are hereby declared to be vested in the said person or persons to whom such bill of sale was made, and their executors, administrators, and assigns, to have and to hold to them, their executors, administrators, and assigns, as their own proper goods and chattels forever; excepting such person or persons having such right or equity of redemption be beyond the seas, or otherwise out of the limits of this State, all which persons shall have saved to them their equity of redemption, so as they prosecute the same within three years after the breach of the proviso of the bill of sale, and at no time thereafter.

Hogan v. Hall, 1 Strob. Eq., 323; Moseley v. Crockett, 9 Rich. Eq., 339

As to sale of personal property mortgaged.

Civ. '02, § 3004.

Sec. 3772. When any personal property under pledge, mortgage or hypothecation is to be sold for the purpose of satisfying the loan or debt secured by such pledge, mortgage or hypothecation, the pledgee, mortgagee or person holding the instrument showing the hypothecation shall advertise the time and place of said sale by posting a notice thereof, in writing, at least fifteen (15) days before said

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le in three (3) public places in the County in which such personal property may be found, one of which shall be the Court House door, or shall publish the same at least two weeks in a newspaper published in his County, unless the person making such pledge, mortgage or hypothecation, or his legal representative, shall consent, or shall have consented, to a sale in some other mode or at some other notice, such consent to be expressed in writing.

Batty v. Knight, 66 S. C., 107; 44 S. E., 589. If mortgagee take part of crop without sale, mortgagor is entitled to credit on mortgagee's debt in proportion that value of property taken bears to entire property mortgaged.—*Green v. Scruggs*, 73 S. C., 403; 53 S. E., 612. Sale to mortgagee at agreed price.—*Workingmen's Bldg. & Loan Assn. v. Epstein*, 73 S. C., 575; 53 S. E., 612. Place of sale. Waiver of provision of Statute as to.—*Fretwell v. Carter*, 78 S. C., 531; 59 S. E., 639.

Sec. 3773. No mortgage of any crop or crops shall be good and effective to convey to the mortgagee any interest in any crop or crops other than the crop or crops to be raised during the year in which said mortgage is given, and unless the land whereon said crop or crops are to be raised shall be described or mentioned in said mortgage.

Mortgage of crops valid only for the year. Planting place to be described.

Civ. '02, § 3005.

Sec. 3774. The mortgagor of any chattel shall have the right to redeem the property mortgaged by him at any time before sale by the mortgagee by paying the mortgage debt and any costs incurred in attempting to enforce its payment, and a tender made by the mortgagor of an amount sufficient to pay said debt and costs, if not accepted, shall render the mortgage null and void.

Right of redemption.

Amount of tender.

Discharge of mortgage.

Civ. '02, § 3006.

Applied to bill of sale to secure advances.—*Lowry v. Gregory*, 60 S. C., 49; 38 S. E., 257; Injunction to stay sale upon tender of payment.—*Seabrook v. Mostowitz*, 51 S. C., 433; 29 S. E., 202.

Tender, opportunity to produce mortgage.—*Spears v. Fields*, 72 S. C., 395; 42 S. E., 44.

Sec. 3775. No voluntary postponement by the mortgagee to seize the personal property covered by any chattel mortgage or bill of sale used as a chattel mortgage after condition broken, and no acceptance of a part of the debt secured by the mortgage or such bill of sale after condition broken, shall be construed to operate as discharging the mortgage or bill of sale, or as reverting the title to the chattel or chattels in the mortgagor; but indulgence may be granted by such mortgagee to such mortgagor after condition broken, as on other past due securities, without prejudice.

Postponement or partial payment not to defeat lien on mortgage.

Civ. '02, § 3007.

Indulgence without prejudice.

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dice or danger to any rights or remedies of the mortgagee in the premises to collect his debt or to seize the chattels at any time at his option.

After breach of condition title vests in mortgagee.—*Reese v. Lyon*, 20 S. C., 20; *McClendon v. Wells*, 20 S. C., 514; *Williams v. Dobson*, 26 S. C., 110; 1 S. E., 421; *Es parte Knobecloch*, 26 S. C., 336; 2 S. E., 612; *Es parte Lorenz*, 32 S. C., 368; 11 S. E., 206; *Wylie v. R. R. Co.*, 48 S. E., 405; 3 S. E., 676. And the mortgagee has the right to sell the property and give good title.—*Flennikin v. Scruggs*, 15 S. C., 91. Against a second mortgage.—*Martin v. Jenkins*, 51 S. C., 42; 27 S. E., 947. Demand for payment after breach of condition does not revert title in mortgagor.—*Hale v. Urey*, 44 S. C., 393; 22 S. E., 371; *Wallingford v. Aiken*, 44 S. C., 396; 22 S. E., 372. Right to enter and take property, power coupled with an interest.—*Wells v. Whittle*, 82 S. C., 500; 64 S. E., 410. Not estopped to enforce mortgage by knowledge that third party had possession of horse without notice.—*Grafton v. Patrick*, 77 S. C., 420; 58 S. E., 1.

Unlawful to make certain charges on loans under \$25.

1904, XXIV, 501.

Sec. 3776. It shall be unlawful for the lender of money on a mortgage or bill of sale of chattels as security for a loan, his agents, employees, or any person in his behalf, where the sum loaned is under twenty-five dollars, to charge the borrower with any sum or sums of money for the drawing of the mortgage, bill of sale, or any papers connected with said loan, unless the said papers be drawn up and prepared by a duly licensed and practicing attorney-at-law, Magistrate or Notary Public not connected in business with the lender, which said officers so drawing said papers shall receive the whole amount so paid by the borrower for the services so rendered, and no part of said fee shall be given by the said attorney-at-law, Magistrate or Notary Public to the lender, his agents, employees or any person in his behalf.

No charge for examination.

Id.

Sec. 3777. It shall be unlawful for any lender, his agents, employees, or any person in his behalf, as set forth in Section 3776, to charge any sum or sums for the examination of any property proposed to be given as security for said loan, or for any services whatsoever rendered in the negotiating, making or effecting of said loan, under whatsoever name the same may be denominated.

Unlawful to take mortgage for greater amount than actually lent.

Id.

Sec. 3778. It shall be unlawful for the lender of money as aforesaid, his agents, employees or any person in his behalf, to have inserted in his mortgage or bill of sale, representing the indebtedness of the mortgagor or vendor, an amount in excess of the actual amount of money received

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the borrower, except as hereinbefore provided for and recording fees.

Sec. 3779. All mortgages or bills of sale hereafter given security for loans in or on which charges have been made, which on its face shall show an indebtedness greater than the amount actually received by the borrower, in violation of the preceding Sections, shall be, and are hereby, declared null and void and of no effect.

Contracts
violating this
Act void.

Id.

ARTICLE II.

LIENS ON LANDS AND BUILDINGS FOR LABOR AND MATERIALS.

Sec.
3780. Party furnishing labor and materials to have lien on buildings, &c.
3781. Sub-contractor may secure lien; lien not to attach without notice of claim.
3782. Not of force against existing mortgage.
3783. Not to attach if owner of building, &c., gives notice.
3784. Lien to be dissolved unless statement be recorded; when, where and what to contain.
3785. Inaccuracy in statement not to invalidate proceedings; exception.
3786. Lien dissolved if suit not begun in six months.
3787. How enforced.
3788. Enforced before Magistrate's Court if less than one hundred dollars.
3789. Petition served with summons, &c.
3790. What is to be stated in petition, &c.
3791. Amendments.
3792. Several may unite in one petition; when.
3793. Notice to owner and other creditors.
3794. To absent parties.
3795. Further notice.
3796. Claims may be proved and contested.
3797. Trial of questions of fact by jury; when.

Sec.
3798. Court to ascertain amount due to each lien creditor; rebate of interest when claim not then payable.
3799. Claims for part performance allowed in certain cases.
3800. Sale of premises if lien be established.
3801. When part may be sold.
3802. Notice of sale.
3803. Distribution of proceeds where claims ascertained.
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3805. Surplus proceeds; to whom paid, &c.
3806. Prior attaching creditor preferred; proportion of proceeds to be held.
3807. Such proportion may be applied to satisfy execution.
3808. Subsequent attachment to be satisfied after lien.
3809. Attachments intervening between two liens.
3810. Rights of attaching creditors, &c., between themselves.
3811. If debtor's estate be less than fee simple, &c., lien to bind his interest.
3812. Lien may be enforced against heirs, executors or administrators.
3813. Executors, &c., may enforce creditor's lien.
3814. Suits begun by one creditor may be prosecuted by another; when.

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3815. In such case the petitioning creditor's claim may be allowed, but without costs, &c.

3816. Costs generally.

SEC.

3817. Right of action on claims not affected.

3818. Discharge of lien on payment of debt; how affected.

3819. Lien of laborers.

Party furnishing labor and materials, to have lien on buildings, &c.

Civ. '02, § 3008.

Section 3780. Any person to whom a debt is due for labor performed or furnished, or for materials furnished and actually used in the erection, alteration, or repair of any building or structure upon any real estate, by virtue of an agreement with, or by consent of, the owner of such building or structure, or any person having authority from one rightfully acting for, such owner, in procuring or furnishing such labor or materials, shall have a lien upon such building or structure, and upon the interest of the owner thereof in the lot of land upon which the same is situated, to secure the payment of the debt so due to him, and the costs which may arise in enforcing such lien under this Chapter, except as is provided in the following Section.

The Section does not give a lien to sub-contractors.—*Kelly v. Bank, Me. Eq., 481; Murray v. Earle, 13 S. C., 87; Gray v. Walker, 16 S. C., 143; Geddes v. Bowden, 19 S. C., 1.* A contract with one who then owned all the stock of an incorporated bridge company for repairs of the bridge gives no lien on it.—*Watson v. Columbia Bridge Co., 18 S. C., 433.* Consent means an agreement of legal force.—*Gray v. Walker, 16 S. C., 143; Geddes v. Bowden, 19 S. C., 1.* Mere knowledge by the agent of the owner of such labor does not amount to such consent.—*Gray v. Walker, 16 S. C., 143.* Such lien upon a building and upon "the interest of the owner thereof in the lot of land upon which the same is situated" includes several adjoining lots enclosed by a common fence and used for the same purpose.—*Ex parte Davis, 9 S. C., 204.* Such lien may be waived by mechanic.—*Murray v. Earle, 13 S. C., 87.*

Accepting benefits of contract with knowledge shows consent thereto.—*Builders' Supply Co. v. North Augusta Electric & Improvement Co., 71 S. C., 361; 51 S. E., 231.* No counter-claim, only set off, can be interposed in proceedings to enforce lien.—*Tenney v. Power Co., 62 S. C., 11; 45 S. E. 111; 60 S. C., 484; 48 S. E., 460.*

Unliquidated damages for failure to complete the work in proper time may be set up as a defense to action.—*Spears v. Durant, 76 S. C., 19; 56 S. E., 65; Tenney v. Power Co., 69 S. C., 48; 48 S. E., 457.* Definition of "owner."—*Metz v. Critcher, 83 S. C., 396; 65 S. E., 394.*

How a sub-contractor may obtain a lien.

Civ. '02, § 3009.

Sec. 3781. Any sub-contractor or person contracting with an original contractor may have such a lien: *Provided,* That before performing or furnishing labor or furnishing materials, or both, he do give notice in writing to the owner of the property to be affected thereby, (or to the lawful agent of the owner if the original contract was made by and through such agent) and also to the original contractor.

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or, that he intends to claim such a lien: *And Provided, further,* That the aggregate amount of any and all such liens and of the lien of the original contractor shall not exceed the amount of the lien of the original contractor; and any and all questions between an original contractor and a sub-contractor or contractors, and between sub-contractors, shall be first adjusted and settled before the owner can be required to pay, on his contract, anything to any of such contractors.

Proviso.

Notice need not be given where the purchaser of the material is the owner of the property.—*Matthews v. Monts*, 61 E. C., 385; 39 S. E., 575.

Sec. 3782. Such lien shall not avail or be of force against any mortgage actually existing and duly recorded prior to the date of the contract under which the lien is claimed.

Not of force
against exist-
ing mortgage.

Civ. '02, §
3010.

Devereaux v. Taft, 20 S. C., 538.

Sec. 3783. The owner of any such building or structure in process of erection, or being altered or repaired, other than the party by whom or in whose behalf a contract for labor or materials has been made, may prevent the attaching of any lien for labor thereon not at the time performed, or materials not then furnished, by giving notice, in writing, to the person performing or furnishing such labor, or furnishing such materials, that he will not be responsible therefor.

Not to attach
if owner of
building, &c.,
gives notice.

Civ. '02, §
3011.

Owner here is subsequent owner who has acquired the right of the owner alluded to in Sec. 3780.—83 S. C., 396; 65 S. E., 394.

Sec. 3784. Such lien shall be dissolved unless the person desiring to avail himself thereof, within ninety days after he ceases to labor on or furnish labor or materials for such building or structure, files in the office of the Register of Mesne Conveyances or Clerk of Court of the County in which the same is situated a statement of a just and true account of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien, sufficiently accurate for identification, with the name of the owner or owners of the property, if known, which certificate shall be subscribed and sworn to by the person claiming the lien, or by some one in his behalf, and shall be recorded in a book kept for the purpose by the Register or Clerk who shall be entitled to the same fees

Lien to be
dissolved un-
less statement
be recorded;
when, where
and what to
contain.

Civ. '02, §
3012.

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therefor as for recording mortgages of equal length. The delivery to the Register Clerk for filing, as hereinbefore provided, shall be and constitute the delivery contemplated with regard to such liens in Title II, of Part II, of this Code.

Kelly v. Bank, McM. Eq., 431; Oliver v. Fowler, 22 S. C., 534; Waring v. Miller Batting Co., 36 S. E., 310.

Sec. 3785. No inaccuracy in such statement, relating to the property to be covered by the lien, if the property can be reasonably recognized, or in stating the amount due for labor or materials, shall invalidate the proceedings, unless it appear that the person filing the certificate has wilfully and knowingly claimed more than is his due.

By inaccuracy of statement, &c.

Civ. '02, § 3013.

Lien dissolved if not begun in six months.

Civ. '02, § 3014.

Sec. 3786. Unless a suit for enforcing the lien is commenced within six months after person desiring to avail himself thereof ceases to labor on or furnish labor or material for such building or structures, the lien shall be dissolved.

When commenced.—Oliver v. Fowler, 22 S. C., 534.

How enforced.

Civ. '02, § 3015.

Sec. 3787. The lien may be enforced by petition to the Court of Common Pleas for the County where the building or structure is situated. The petition may be filed in term, or in the Clerk's office in vacation, and the date of the filing shall be deemed the commencement of the suit.

Assignee of such lien may thus enforce it.—Oliver v. Fowler, 22 S. C., 534. This and the following Section create no right, but simply relate to enforcement of such right.—Geddes v. Bowden, 19 S. C., 1.

Metz v. Critcher, 83 S. C., 396; 65 S. E., 394.

Enforced before Magistrate's Court, if less than one hundred dollars.

Civ. '02, § 3016.

Sec. 3788. When the amount of the claim does not exceed one hundred dollars, the lien may be enforced by a petition to a Magistrate; and such Magistrate shall have like power and authority within his jurisdiction as herein conferred upon the Court of Common Pleas, with like rights of appeal to the parties as exist in other civil cases.

Petition served with summons, &c.

Civ. '02, § 3017.

Sec. 3789. The petition may be served with the summons, or filed with the Clerk, and shall be returned and entered as other civil cases.

Summons not necessary.—Johnson v. Frazee, 20 S. C., 500. But may be used.—Oliver v. Fowler, 22 S. C., 534.

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Sec. 3790. The petition shall contain a brief statement of the contract on which it is founded, and of the amount due thereon, with a description of the premises subject to the lien, and all other material facts and circumstances; and shall pray that the premises may be sold, and the proceeds of the sale be applied to the discharge of the demand.

To contain
brief state-
ment of con-
tract, &c.

Civ. '02, §
3018.

Sec. 3791. The Court may at any time allow either party to amend his pleadings as in other civil actions.

Amendments.

Civ. '02, §
3019.

McGee v. Piedmont Manufacturing Co., 7 S. C., 263; Geddes v. Bowden, 19 S. C., 1; Waring v. Miller Batting Co., 36 S. C., 310.

Sec. 3792. Any number of persons who have actually performed labor or furnished labor or materials on one or more buildings or structures upon different lots of land, where the labor was performed for the same owner, contractor, or other person, may join in the same petition for their respective liens, and the same proceedings shall be had in regard to the rights of each petitioner, and the respondent may defend as to each petitioner, in the same manner as if he had severally petitioned for his individual lien.

Any number
who have la-
bored on same
building may
join in peti-
tion.

Civ. '02, §
3020.

Sec. 3793. The Court in which the petition is entered shall order notice to be given to the owner of the building or structure, that he may appear and answer thereto at a certain day in the same term, or at the next term, by serving him with an attested copy of the petition, with the order of the Court thereon, fourteen days at least before the time assigned for the hearing; and the Court shall also order notice of the filing of the petition to be given to all other creditors who have a lien of the same kind upon the same estate, by serving them with a copy of the last mentioned order in like manner.

Notice to
owner and oth-
er creditors.

Civ. '02, §
3021.

This applies as well where the owner is defendant with the contractor as where he is sole defendant.—Johnson v. Frazee, 20 S. C., 500. Either the proceeding here or that in Section 3789 may be properly used.—Oliver v. Fowler, 22 S. C., 534.

Sec. 3794. If it appears to the Court that any of the parties entitled to notice are absent, or that they cannot probably be found to be served with the notice, the Court may, instead of the personal notice before mentioned, or in addition thereto, order notice to all persons interested, by publishing in some newspaper the substance of the petition,

To absent
parties.

Civ. '02, §
3022.

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with the order of the Court thereon, assigning the time and place for a hearing, or may order such other notice to be given as may, under the circumstances of the case, be considered most proper and effectual.

Further notice.

Civ. '02, § 3028.

Sec. 3795. If, at the time assigned for the hearing, it appears to the Court that any of the persons interested had not had a sufficient notice of the suit, the Court may order further notice to them, in such manner as may be considered most proper and effectual.

Claims may be proved and contested.

Civ. '02, § 3024.

Sec. 3796. At the time assigned for the hearing, or within such further time as the Court allows for that purpose, every creditor having a lien of the kind before mentioned upon the same property, may appear and prove his claim; and the owner and each of the creditors may contest the several claims of every other creditor, and the Court shall hear and determine them in a summary manner, either with or without jury, as the case may require.

Jury to try facts.

Civ. '02, § 3025.

Sec. 3797. Every material question of fact arising in the case shall be submitted to a jury, if required by either party, or deemed proper by the Court; and the trial shall be had upon a question stated, or an issue framed, or otherwise, as the Court may order. A jury shall be had before a Magistrate only as in other civil cases.

Jury trial matter of right under the Statute.—*Metz v. Critcher*, 83 S. C. 396; 65 S. E., 394.

Claims not payable allowed with rebate of interest.

Civ. '02, § 3026.

Sec. 3798. The Court shall ascertain and determine the amount due to each creditor who has a lien of the kind before mentioned upon the property in question; and every such claim due, absolutely and without any condition, although not then payable, shall be allowed, with a rebate of interest to the time when it would become payable.

Interest not allowed.—*Devereaux v. Taft*, 20 S. C., 555.

Claims for part performance allowed in certain cases.

Civ. '02, § 3027.

Sec. 3799. When the owner fails to perform his part of the contract, and by reason thereof the other party, without his own default, is prevented from completely performing his part, he shall be entitled to a reasonable compensation for as much as he has performed, in proportion to the price stipulated for the whole, and the Court shall adjust his claim accordingly.

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No personal judgment can be given in this proceeding for any deficiency that may be after such sale.—Johnson v. Frazee, 20 S. C., 500.

Sec. 3800. If the lien is established in favor of any of the creditors whose claims are presented, the Court shall order a sale of the property to be made by such officer as may be authorized by law to make sales of property.

Sale of premises if lien be established.

Civ. '02, § 3028.

Judgment in *personam* not authorized.—Metz v. Critcher, 83 S. C., 396; 65 S. E., 394.

Sec. 3801. If part of the property can be separated from the residue, and sold, without damage to the whole, and if the value thereof is sufficient to satisfy all debts proved in the case, the Court may order a sale of that part, if it appears to be most for the interest of all parties concerned.

Part may be sold if sufficient.

Civ. '02, § 3029.

Sec. 3802. The officer who makes the sale shall give notice of the time and place in the manner prescribed in relation to the sale of mortgaged lands under foreclosure, unless the Court orders a different notice to be given.

Notice of sale.

Civ. '02, § 3030.

Sec. 3803. If all the claims against the property covered by the lien are ascertained at the time of ordering the sale, the Court may order the officer to pay over and distribute the proceeds of the sale, after deducting all lawful charges and expenses, to and among the several creditors, to the amount of their respective debts, if there is sufficient therefor; and if there is not sufficient, then to divide and distribute the same among the creditors, in proportion to the amount due to each of them.

Distribution of proceeds of sale.

Civ. '02, § 3031.

Sec. 3804. If all the claims are not ascertained when the sale is ordered, or if for any other reason the Court finds it necessary or proper to postpone the order of distribution, it may direct the officer to bring the proceeds of the sale into Court, there to be disposed of according to the decree of the Court, and if, by reason of the claims of attaching creditors, or for any other cause, the whole cannot be conveniently distributed at once, the Court may make two or more successive orders of distribution, as the circumstances may require.

Proceeds may be brought into Court, and successive distributions made.

Civ. '02, § 3032.

Sec. 3805. If there remain any surplus of the proceeds of the sale, after making all the payments before mentioned, it shall be forthwith paid over to the owner of the property; but such surplus, before it is so paid over, shall be liable

Distribution of surplus.

Civ. '02, § 3033.

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to be attached or taken on execution, in like manner as if it proceeded from a sale made by the officer on an execution.

Prior attaching creditor preferred; proportion of proceeds to be held.

Civ. '02, § 3034.

Sec. 3806. If the interest of the owner in the building, structure, or land, is under attachment at the time of filing and recording the statement of the account, the attaching creditor shall be preferred to the extent of the value of the buildings and land as they were when the statement was recorded; and the Court shall ascertain, by a jury or otherwise, as the case may require, what proportion of the proceeds of the sale shall be held subject to the attachment, as derived from the value of the property when the statement was recorded.

Such proportion may be applied to satisfy execution.

Civ. '02, § 3035.

Sec. 3807. If the attaching creditor recovers judgment, he shall be entitled to receive on his execution the proportion of the proceeds held subject to his attachment, or so much thereof as may be necessary to satisfy his execution, and the residue of the proceeds shall be applied in the same manner as if there had been no such attachment.

Subsequent attachment to be satisfied after lien.

Civ. '02, § 3036.

Sec. 3808. If the interest of the owner of the property is attached after the recording of the statement, the proceeds, after discharging all prior liens and claims, shall be applied to satisfy the execution of such attaching creditor.

Attachments intervening between two liens.

Civ. '02, § 3037.

Sec. 3809. If an attachment is made after the recording of such statement, and if, after the attachment, another like statement is recorded, the creditor in the latter statement shall be entitled to be paid only out of the residue of the proceeds remaining, after paying all that is due on the demands a statement of which is recorded before the attachment, and satisfying the attaching creditor.

Rights of attaching creditors, &c., between themselves.

Civ. '02, § 3038.

Sec. 3810. When there are several attaching creditors, they shall, as between themselves, be entitled to be paid according to the order of their attachments; but when several creditors, who are entitled to the lien provided for in this Chapter, have equal rights as between themselves, and the fund is insufficient to pay the whole, they shall share it equally, in proportion to their respective debts.

If debtor's estate be less than fee simple, &c., lien to bind his interest.

Civ. '02, § 3039.

Sec. 3811. If the person for whom the work is done or materials are furnished, has an estate for life, or any other estate less than a fee simple in the land, or if the property, at the time of recording the statement, is mortgaged, or under any other incumbrance, the lien before provided for

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shall bind his whole estate and interest therein in like manner as a mortgage would have done, and the creditor may cause the right of redemption, or whatever other right or estate the owner had in the property, to be sold and applied to the discharge of his debt according to the provisions of this Chapter.

Sec. 3812. If the person indebted dies or conveys away his estate or interest before the commencement of a suit on the contract, the suit may be commenced and prosecuted against his heirs or whoever holds the estate or interest which he had in the premises at the time the labor or materials were performed or furnished; or, if a suit is commenced in his lifetime, it may be prosecuted against his executors, administrators, heirs, or assigns, in like manner as if the estate or interest had been mortgaged to secure the debt.

Lien may be enforced against heirs, executors or administrators.

Civ. '02, § 3040.

Sec. 3813. If the creditor dies before the commencement of the suit, the suit may be commenced and prosecuted by his executor and administrators; or, if commenced in his lifetime, it may be prosecuted by them as it might have been by the deceased, if living.

Executor, &c., may enforce creditor's lien.

Civ. '02, § 3041.

Sec. 3814. If it appears, in any stage of the proceedings, that the suit was commenced by the petitioning creditor before his right of action accrued, or after it was barred, or if he become nonsuit, or fail to establish his claims, suit may be prosecuted by any other creditor having such lien, in the same manner as if it had been originally commenced by him, if the circumstances of the case are such that he might then, or at any time after the commencement of the original suit, have commenced a like suit on his own claim.

Suits begun by one creditor may be prosecuted by another.

Civ. '02, § 3042.

Sec. 3815. If the suit is commenced by the petitioning creditor before his right of action accrues, his claim may nevertheless be allowed, if the suit is carried on by any other creditor, as provided in the preceding Section; but he shall not, in such case, be entitled to costs; and he may be required to pay the costs incurred by the debtor, or such part thereof as the Court may deem reasonable.

If suit be begun before right of action accrues, another creditor may prosecute; costs.

Civ. '02, § 3043.

Sec. 3816. The costs, in all other respects, shall be subject to the discretion of the Court, and shall be paid from the proceeds of the sale, or by any of the parties to the suit, as justice and equity require.

Costs in other cases.

Civ. '02, § 3044.

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Civil action
not barred.Civ. '02, §
3045.Discharge of
lien, how exe-
cuted.Civ. '02, §
3046.Contractors
to pay all la-
borers em-
ployed.Civ. '02, §
3047.Lien of la-
borers.

Sec. 3817. Nothing contained in this Chapter shall be construed to prevent a creditor in such contract from maintaining an action thereon in like manner as if he had such lien for the security of his debt.

Sec. 3818. When a debt secured by such a lien is fully paid, the creditor, at the expense of the debtor, shall enter on the margin of the registry, where the statement is recorded a discharge of his lien, or shall execute a release thereof which may be recorded where the statement is recorded.

Sec. 3819. It shall be the duty of any contractor or contractors in the erection, alteration or repairing of buildings in the State of South Carolina to pay all laborers, sub-contractors and material men for their lawful services and material furnished out of the money received for the erection, alterations or repairs of buildings upon which said laborers, sub-contractors and material men are employed or interested, and said laborers, as well as all sub-contractors and persons, who shall furnish material for said building, shall have a first lien on the money received by said contractor or contractors for the erection, alteration or repair of said buildings in proportion to the amount of their respective claims. Nothing herein contained shall make the owner of the building responsible in any way: *Provided, further.* That nothing contained in this Section shall be construed to prevent any contractor or contractors or sub-contractor from borrowing money on such contract.

Lien does not attach until the contractor has received the money.—*Morris v. Alderman*, 70 S. C., 462; 50 S. E., 26.

ARTICLE III.

LIENS ON SHIPS AND VESSELS FOR LABOR AND MATERIALS.

SEC.

3820. Lien declared.

3821. Dissolved unless statement of demand filed; when, where, and what.

3822. If ship is built in two places, &c., inaccuracy of description, &c., not to affect proceedings, &c.

SEC.

3823. Lien, how enforced: filing of petition, &c.

3824. Petition, what to contain.

3825. Amendments.

3826. Several claimants may unite in same petition.

3827. Claims to be marshalled: contribution, how to be made.

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Section 3820. When by virtue of a contract, expressed or implied, with the owners of a ship or vessel, or with the agents, contractors, or sub-contractors of such owners, or any of them, or with any person having been employed to construct, repair, or launch such ship or vessel, or to assist them, money is due to any person for labor performed, materials used, or labor and materials furnished in the construction, launching, repairs of, or for constructing the launching-ways for, or for provisions, stores, or other articles furnished for or on account of such ship or vessel in this State, such person shall have a lien upon the ship or vessel, her tackle and furniture, to secure the payment of such debt; which lien shall be preferred to all others thereon, except mariners' wages, and shall continue until the debt is satisfied.

Lien on ships and vessels for labor performed and materials furnished.

Civ. '02. § 3048.

Such contract with the mortgagor, who has the exclusive control and use of the ship, does not charge the mortgagee for repairs.—Cordray v. Mordecai, 2 Rich., 518.

Sec. 3821. Such lien shall be dissolved unless the person claiming the same shall file, within ninety days after he ceases to labor on or furnish labor or materials for such ship or vessel, in the office of the Register of Mesne Conveyance or Clerk of Court of the County within which the ship or vessel was at the time the debt was contracted, a statement, subscribed and sworn to by himself or by some person in his behalf, giving a just and true account of the demands claimed to be due to him, with all just credits; and also the name of the person with whom the contract was made, the name of the owner of the ship or vessel, if known, and the name of the ship or vessel, or a description thereof, sufficient for identification; which statement shall be recorded by said Register of Mesne Conveyance, or Clerk, in a book kept by him for that purpose; for which he shall receive the same fees as for recording other papers of equal length.

Requisites to retain lien.

Civ. '02. § 3049.

To be recorded. Fees.

Sec. 3822. If the ship or vessel is partly constructed in one place and partly in another, either place shall be deemed the port at which she was when the debt was contracted, within the meaning of this Chapter; and no inaccuracy in the description of the ship or vessels, if she can be recognized thereby, or in stating the amount due for labor or

If ship is built in two places, &c.; inaccuracy of description, &c., not to affect proceedings.

Civ. '02. § 3050.

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materials, shall invalidate the proceedings, unless it appears that the person filing the certificate has knowingly and willfully claimed more than his due.

Lien; how
enforced; fil-
ing of peti-
tion, &c.

Civ. '02, §
3051.

Sec. 3823. Such lien may be enforced by petition to the Court of Common Pleas for the County where the vessel was at the time the debt was contracted, or in which she is at the time of instituting proceedings. The petition may be entered in Court or filed in the Clerk's office in vacation, or may be served with the summons, with an order of attachment, and returned, and entered, as other civil actions, and the subsequent proceedings for enforcing the lien shall, except as hereinafter provided, be as prescribed for enforcing liens on buildings and lands, so far as the same are applicable. At the time of entering or filing the petition, a process of attachment against such ship or vessel, her tackle, apparel and furniture, shall issue and continue in force, or may be dissolved like attachments in civil cases, but such dissolution shall not dissolve the lien.

Petition, to
contain what.

Civ. '02, §
3052.

Sec. 3824. The petition shall contain a brief statement of the labor, materials, or work done or furnished, or the stores, provisions, or other articles furnished, and the amount due therefor, with a description of the ship or vessel subject to the lien, and all other material facts and circumstances, and shall pray that the ship or vessel may be sold and the proceeds of the sale applied to the discharge of the demand.

Amendments.

Civ. '02, §
3053.

Sec. 3825. The Court may at any time allow either party to amend his pleadings, as in other civil actions.

Several claim-
ants may join
in same peti-
tion.

Civ. '02, §
3054.

Sec. 3826. Any number of persons having such liens upon the same ship or vessel may join in the same petition to enforce the same; and the same proceedings shall be had in regard to the respective rights of each petitioner, and the respondent may defend as to each petitioner, in the same manner as if they had severally petitioned for their individual liens.

In such cases
claims to be
marshalled
and proceeds
distributed; if
proceeds be in-
sufficient, liens
to be satisfied
ratably.

Civ. '02, §
3055.

Sec. 3827. When there is money due to more than one person holding a lien upon a ship or vessel under the provisions of this Chapter, all parties interested having been cited to appear and answer, the claims of all shall be marshalled, and the Court shall make such order or decree as may be necessary to prevent the enforcement of a double

lien for the same labor, materials, stores, provisions, or other articles, and to secure the just rights of all. And the proceeds arising from the sale of such ship or vessel, after deducting all proper costs and expenses, shall be distributed among the several claimants, to the amount of their respective debts: *Provided*, That when such proceeds are insufficient to satisfy the liens of all those having liens for labor, they shall receive a percentage on their respective claims one-third greater, as near as may be, than those having liens for materials, stores, or other articles.

ARTICLE IV.

LIENS ON RAILROADS FOR WORK OR MATERIAL.

SEC. 3828. Liens on railroad for work or materials.

Section 3828. Any person to whom a debt is due for labor performed or furnished, or for materials furnished and actually used in the construction, alteration or repair of any railroad by virtue of an agreement with or by consent of the owner or corporation or person controlling and operating the same or any person having authority from or rightfully acting for such owner, corporation or person in procuring or furnishing such labor or materials, or any person rendering services for such railroad company, shall have a lien upon such railroad and upon all the interests of such owner, corporation or person as aforesaid in said railroad, to secure the payment of the debt so due him and the costs which may arise in enforcing such lien under the provisions of Article 2 of this Chapter.

Said lien shall be subject to all the provisions and be enforced in the same manner as provided for in Article 2 of this Chapter, relating to liens on lands or buildings for the labor and materials.

Persons to have a lien on railroads for work or materials.

Civ. '02, § 3056.

Liens subject to Art. 2, Chapter C, R. S.

McDonald v. R. R. Co., 24 S. W., 252; 93 Tenn., 281. Prior to this Act there was no such lien in this State.—Greenwood A. & W. Ry. v. Strange, 7 Fed., 498.

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ARTICLE V.

AGRICULTURAL LIENS.

Sec.

3829. Lien of landlord for rent and advances on crops raised on leased premises.

3830. Lien of laborers.

3831. Ranks of liens for rent, for labor, and for supplies.

3832. Liens for advances to be indexed in office of Register of Mesne Conveyances; when; how; effect of, as notice; fees.

3833. Clerk's warrant for seizure and sale of crops; how obtained; duty of Sheriff; notice of contest; issue, &c.

Sec.

3834. Proceedings in Court of Magistrate for foreclosure of liens; in what cases; issue &c.; costs.

3835. Requisites for affidavits: motion to vacate warrant, bond of applicant, &c.

3836. When lien creditor may proceed before debt becomes due.

3837. Lien on supplies; remedies on

3838. Replevy of crops seized; bond &c.

Lien of landlord for rent and advances on crops raised on leased premises.

1906, XXV, 82.

Section 3829. Every landlord leasing land for agricultural purposes shall have a prior and preferred lien for his rent to the extent of all crops raised on the lands leased by him, whether the same be raised by the tenant or other person. No writing or recording shall be necessary to create such lien, but it shall exist from the date of the contract, whether the same be in writing or verbal, and the landlord and his assigns shall have the right to enforce such lien in the same manner, upon the same conditions, and subject to the same restrictions, as are provided in this Article for persons making advances for agricultural purposes. And subject to the liens hereinafter provided for and enforceable in the same way, the landlord and his assigns shall have a lien on all the crops raised by the tenant for all advances made by the landlord to such tenant during the year.

The contract carries with it a lien without an express agreement for it.—Carter v. DuPre, 18 S. C., 179. The lien is not defeated by taking a writing under seal for the rent.—Sullivan v. Ellison, 20 S. C., 481. Rent payable in cotton is secured by such lien.—State v. Reader, 36 S. C., 497; 15 S. E. 544. It seems that such rent, although payable monthly, has such preferred lien over liens given for supplies.—Brewster v. McNab, 36 S. C., 274; 15 S. E. 233. Magistrate has jurisdiction where amount claimed does not exceed \$100.—So. Ry. Co. v. Sarratt, 58 S. C., 98; 36 S. E., 505.

An agreement to give an agricultural lien does not create an equitable mortgage.—Creech v. Long, 77 S. C., 25; 51 S. E., 614. Lease of agricultural purposes. Manure belongs to landlord.—Roberts v. Jones, 71 S. C., 404; 51 S. E., 240. Assignment of lien for advances sustained.—State v. Elmore, 62 S. C., 140; 46 S. E., 939. Proceeds of crops under lien must be applied to lien.—Barfield v. Coker, 73 S. C., 181; 53 S. E., 170.

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Sec. 3830. Laborers who assist in making any crop on
 ares, or for wages in money or other valuable considera-
 on, shall have a lien thereon to the extent of the amount
 re them for such labor, next in priority to the lien of the
 ndlord for rent; and as between such laborers there shall
 no preference. Such portion of the crop to them belong-
 g, or such amount of money or other valuable considera-
 on as may be due them, shall be recoverable by an action in
 y Court of competent jurisdiction.

Laborers' lien
 on crops;
 grade of; how
 enforced.

Civ. '02, §
 3058.

Laborer not entitled to such rights unless the contract is reduced to writ-
 g.—Hair v. Blease, 8 S. C., 63. Laborer cannot bind share in crops by a
 n for advances.—Carpenter v. Strickland, 20 S. C., 1; Richey v. DuPre,
 S. C., 6. Contract with laborer.—McCutchen v. Crenshaw, 19 S. E., 140;
 S. C., 511.

Sec. 3831. The landlord shall have a lien upon the crops
 f his tenant for his rent in preference to all other liens.
 laborers who assist in making any crop shall have a lien
 ereon to the extent of the amount due them for such
 bor, next in priority to the landlord, and as between such
 borers there shall be no preference. All other liens for
 gricultural supplies shall be paid next after the satisfac-
 on of the liens of the landlord and laborers, and shall
 ank in other respects as they do now under existing laws.

Rank of liens
 for rent, for
 labor, and for
 supplies.

Civ. '02, §
 3060.

If senior lieenee by agreement permit a third person to take and apply to
 a unsecured claim enough of the crops to pay his own debt without notice to
 nior lieenee he cannot afterwards maintain an action against the junior
 enee for the crops seized by him and applied to his lien debt.—Hankinson
 . Hankinson, 61 S. C., 193; 39 S. E., 385. Before the Act of 1885, this
 reference of landlord's lien for rent without recorded agreement only
 tended to one-third of the crop.—Kennedy v. Reames, 15 S. C., 548; Whaley
 . Jacobson, 21 S. C., 51.

State v. Lanier, 79 S. C., 108; 60 S. E., 225.

Sec. 3832. Every lien for advances shall be indexed in
 he office of the Register of Mesne Conveyances, or Clerk of
 he Court, (where the office of Register of Mesne Convey-
 nce does not exist,) of the County in which the lienor
 resides within thirty days from the date of the lien, and
 he indexing of the said lien shall constitute notice thereof
 o all third persons and entitle the same to the benefit of
 his Article. Said index shall show the names of the lienor
 and lieenee, the date and amount of lien, and a brief descrip-
 tion of the place so cultivated; and said indexing shall be a
 sufficient record of the same, and the property covered
 by such lien, so indexed as aforesaid, if found in the hands

Liens for ad-
 vances to be
 indexed in of-
 fice of Regis-
 ter of Mesne
 Conveyances;
 when; how;
 effect of, as
 notice; fees.

Civ. '02, §
 3061.

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of subsequent purchasers or creditors, shall be deemed liable to said lien. The Clerk of Court or Register of Mesne Conveyances, as the case may be, shall endorse his official certificate upon every lien on a crop or crops filed in his office under the provisions of this Article, and his only fee for filing, indexing and certifying the same shall be fifteen cents for each lien so filed, indexed and indorsed.

Under the Act of 1878, before its amendment, the lien had to be kept on file in Clerk's office as well as indexed.—*Sternberger v. McSween*, 14 S. C. 35. If not indexed the lien is good between the parties and enforceable by warrant.—*Lyons v. Tedder*, 7 S. C., 60. But an unrecorded lien of landlord for advances does not avail against a merchant's recorded lien for advances.—*Whaley v. Jacobson*, 21 S. C., 51.

Party taking proceeds of property on which lien exists becomes liable for money had and received.—*Link v. Barksdale*, 70 S. C., 487; 50 S. E., 189. *Parks v. Laurens Cotton Mills*, 70 S. C., 274; 49 S. E., 871.

Clerk may
arrest unlaw-
ful sale of
crop.

Civ. '02, §
8062.

Sec. 3833. If any person making such advances shall prove, by affidavit, to the satisfaction of the Clerk of the Court of the County in which such crop is, that the person to whom such advances have been made is about to sell or dispose of his crop, or in any other way is about to defeat the lien hereinbefore provided for, accompanied with a statement of the amount then due, it shall be lawful for him to issue his warrant, directed to any of the Sheriffs of this State, requiring them to seize the said crop, and, after due notice, sell the same for cash, and pay over the net proceeds thereof, or so much thereof as may be necessary, in extinguishment of the amount then due: *Provided, however*, That if the person to whom such advances have been made shall, within thirty days after such sale has been made, give notice in writing to the Sheriff, accompanied with an affidavit to this effect, that the amount claimed is not justly due, then it shall be the duty of the said Sheriff to hold the proceeds of such sale subject to the decision of the Court upon an issue which shall be made up and set down for trial at the next succeeding term of the Court of Common Pleas for the County in which the person to whom such advances have been made resides, in which the person who makes such advances shall be the actor.

Sufficiency of affidavit.—*Doty v. Boyd*, 46 S. C., 39; 24 S. E., 59. The lien is strictly limited to this remedy to enforce his lien.—*Kennedy v. Reames*, 15 S. C., 548. The affidavit is fatally defective unless it state the facts required to obtain the warrant.—*Segler v. Coward*, 24 S. C., 119. The warrant can be issued only by the Clerk, and served only by the Sheriff.—*Jones v. Clarkson*, 16 S. C., 628. It cannot issue on liens for advances made

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e agreement for a lien was in writing and signed by the party charged.—
 Carpenter v. Strickland, 20 S. C., 1. Sheriff cannot, under such warrant,
 take the crops already distrained and taken into possession by the landlord
 for rent without payment of the rent.—Brewster v. McNab, 36 S. C., 274;
 S. E., 233. The seizure of the crop may be made elsewhere than on the
 land where it is made.—Visanski v. Bradley, 4 S. C., 288. The only issue to
 be determined under notice to the Sheriff is, whether the amount claimed is
 justly due.—Johnstone v. Manigault, 13 S. C., 403. If affidavit deny any
 indebtedness under the lien, that is sufficient.—Warren v. Lawton, 14 S. C.,
 476. Such notice and affidavit, when filed with the Clerk, raise the issue
 sufficiently for trial, and no order of Court is necessary to frame such issue.—
 Johnstone v. Manigault, 13 S. C., 403; Warren v. Lawton, 14 S. C., 476.
 The lienor is the actor in the Court contesting the claim of lienor.—Virginia-
 Carolina Chemical Co. v. Kirven, 57 S. C., 445; 37 S. C., 745. Damages for
 failure to advance supplies, as agreed, not recoverable hereunder.—Davis v.
 Schmidt, 22 S. C., 128. This remedy of the lienor is not exclusive of other
 remedies.—Segler v. Coward, 24 S. C., 119. Lienor entitled to costs as witness
 at trial of such issue.—Winsmith v. Dewberry, 14 S. C., 554. Appeal lies
 from judgment in this proceeding.—Johnstone v. Manigault, 13 S. C., 403.

Sec. 3834. When any person shall have made advances for agricultural purposes and shall have secured lien upon the crop or crops of the person to whom such advances may be made, according to the provisions of law relating to agricultural liens, and the amount of such advances do not exceed one hundred dollars, it shall be lawful for any Magistrate of the County in which such lien is indexed, upon the production of said lien and the proof required in cases where Clerks of the Court may issue warrants, to issue his warrant directed to a Constable or the Sheriff of the County, requiring him to seize said crop or crops, and after due notice sell the same for cash and apply the net proceeds thereof, or so much thereof as may be necessary, in extinguishment of said lien: *Provided*, That if the person to whom such advances have been made shall give notice in writing, within ten days after such seizure, accompanied with an affidavit to the effect that the amount claimed is not justly due, then the Magistrate issuing the warrant shall, at the expiration of twenty days, decide an issue which shall be made up, in which the person who may have made such advances shall be the actor.

This Section shall be construed to prevent Clerks of the Court from issuing warrants to enforce agricultural liens in all cases as in this Article provided.

The costs and fees of Magistrates for enforcement of agricultural liens shall be the same as for Clerks of Court in similar cases; and Constables in Magistrates' Courts shall

Proceedings
in Court of
Magistrate for
foreclosure of
liens; in what
cases; issue,
&c., costs.

Civ. '02, §
3063.

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be allowed in such cases the same fees and costs allowed in like cases to Sheriffs.

Motion to vacate before Magistrate.—Kennedy v. Dunbar, 46 S. C., 517; 24 S. E., 383.

Improvident issue. Damages.—Barfield v. Coker, 73 S. C., 181; 53 S. E. 170.

Requisites of affidavits; motion to vacate warrant; bond of applicant, &c.

Civ. '02, § 3064.

Amount of bond.

Sec. 3835. The affidavit and statements to be used to obtain any warrant of seizure provided for in this Article shall conform, as nearly as may be, to the practice regulating the issuing of warrants of attachment under the Code of Procedure; and the persons against whom it is issued shall have the right to move before the Clerk of the Court or Magistrate by whom it is issued, or a Circuit Judge, to vacate said warrant of seizure for any of the causes which would be sufficient to vacate a warrant of attachment issued under the Code of Procedure.

Before issuing such warrant, the officer to whom application therefor is made shall require the party applying to enter into an undertaking, with sufficient surety, to the effect that he will pay to the party whose crops are to be attached or seized such costs as may be awarded to him should said warrant be set aside, and all damages that he may sustain in consequence of the issuing of such warrant, if it should be decided by any Court of competent jurisdiction that the same had been illegally or improvidently issued, not exceeding the sum specified in the undertaking which shall be at least two hundred and fifty dollars, except in case of a warrant issued by a Magistrate, when it shall be at least twenty-five dollars.

The only conformity to the attachment law required is in the affidavit and statements, not in the subsequent proceedings.—Blair v. Morgan, 59 S. C., 52; 37 S. E., 45; So. Ry. Co. v. Sarratt, 58 S. C., 98; 36 S. E., 505. Failure to file affidavits.—Townsend v. Sparks, 50 S. C., 380; 27 S. E., 801; Doty v. Boyd, 46 S. C., 89; 24 S. E., 59. Time within which motion to vacate may be made.—Kennedy v. Dunbar, 46 S. C., 517; 24 S. E., 383. The Circuit Judge can vacate an unlawful warrant of seizure at chambers.—Seigler v. Coward, 24 S. C., 119. On motion therefor the Judge cannot consider facts not appearing in affidavit submitted to the Clerk.—Segler v. Coward, 24 S. C., 119.

Filing undertaking is jurisdictional, damages for seizure where undertaking was not filed.—Forrester v. McBee, 72 S. C., 189; 51 S. E., 675.

Sec. 3836. In case any portion of the crop is removed from the land rented or leased, and the proceeds thereof not applied to the payment of the rent for the year, or to the other liens herein provided for, and this fact shall be

made to appear by affidavit, persons holding liens as herein provided shall have the right to proceed to collect the amounts which will become due for rent or advances in the same way as if the same had become due according to contract before such removal.

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When lien creditor may proceed before debt becomes due.

Civ. '02, § 3065.

Sec. 3837. Any person who shall make advances in provisions, supplies, and other articles for agricultural purposes, shall have a lien in preference to all other liens, existing or otherwise, upon such provisions, supplies, and other articles, until the same shall be consumed in the use.

Lien upon supplies advanced.

Civ. '02, § 3066.

In case any one to whom such provisions, supplies, and other articles, are so advanced, shall endeavor to dispose of the same for other purposes than that for which they were advanced, or in case any person shall endeavor to make said provisions, supplies, and other articles, liable for the debts of the party to whom they were advanced, then the party advancing said provisions, supplies, and other articles, shall have the same remedies and means for enforcing his lien as are herein provided in case of advances for agricultural supplies.

Sec. 3838. Any person whose crop or crops, whether the same be severed from the freehold or not, may be seized under the provisions of any or all of the preceding Sections of this Article, shall have the right, upon entering into bond in accordance with the provisions of law now of force in regard to actions for claim and delivery of personal property, to recover immediate possession of the crop or crops so seized; but nothing herein contained shall be so construed as to affect any of the provisions of said Sections in cases where no bond is given as herein authorized.

Replevy of crop seized; bond, &c.

Civ. '02, § 3067.

Such contract may be by parol.—Harby v. Wells, 52 S. C., 156; 29 S. E., 563.

ARTICLE VI.

LIENS OF OWNERS OF STOCK ANIMALS.

Sec. 3839. Owners of stock horses, &c., to have lien on issue; how enforced.

Section 3839. The owner of any stock horse, jack, bull, boar or ram, kept by him for the purpose of raising from;

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Owners of horses, &c., to have lien on issue; how enforced. **Sec. 3068.** **Civ. '02.** § 3068. having a claim by contract against the owner of any mare or cow, or other stock, for service, shall have a prior lien on the issue of such mare, cow or other stock for the amount of such claim: *Provided*, An action shall be instituted to enforce such claim, by suit before a Magistrate or other officer having jurisdiction, within twelve months from the time such claim shall have accrued.

Such contract may be by parol.—Harby v. Wells, 52 S. C., 156; 29 S. E. 568.

ARTICLE VII.

LIENS OF EMPLOYEES IN FACTORIES, ETC.

SEC.

3840. Employees of factories, &c., to have lien for wages.

SEC.

3841. How lien may be enforced
3842. Costs in such cases.

Employees in factories, &c., to have a lien for their wages.

Civ. '02. § 3069.

Section 3840. All employees in factories, mines, mills, distilleries, and all and every kind of manufacturing establishment in this State, shall have a lien upon all the output of the factory, mine, mill, distillery, or other manufacturing establishment in which they may be employed, either by the day or month, whether the contract be in writing or not, to the extent of such salary or wages as may be due and owing to them under the terms of their contract with the employer. such lien to take precedence over any and all other liens, except the lien for municipal, State and County taxes.

How lien of employees in factories may be enforced.

Civ. '02. § 3070. 1906. XXV, 81.

Sec. 3841. Any one entitled to the provisions of this Article may begin suit upon his or her demands in any Court of competent jurisdiction, and at the time of commencing action may file with the officer out of whose Court he desires process to issue an affidavit setting forth the facts out of which his or her alleged lien arose, the amount of same, and shall designate the property alleged to be affected by said lien; thereupon it shall be the duty of said officer to issue his process in the nature of a warrant of attachment, directing the Sheriff of the County, or any lawful Constable, to seize so much of the property described in said affidavit as may be necessary to satisfy said alleged lien. The officer executing aforesaid process shall seize and take into his possession and custody, according to the

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and date of said process, the property described, and shall hold the same until the final determination of the suit between the parties, following the usual practice in attachment cases as to sale after judgment, or even before judgment if the property seized be perishable and ordered sold by the Court: *Provided*, That should the party claiming to be the legal owner of the property seized desire to do so during suit, he may furnish good and sufficient security for the payment of such judgments as may be recovered by plaintiff against him in suit pending, to be approved by the officer issuing the process, and shall thereupon be entitled to the custody of the property seized, just as though no process had been issued against it: *Provided*, That the claims of third persons shall be made and determined in the same manner as such claims in attachment cases.

Sec. 3842. The costs and fees of officers in proceedings under this Article shall be the same as in cases of attachment under the Code.

Costs in such cases.

Civ. '02, § 3071.

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TITLE V.

OF PROCEEDINGS FOR THE RELIEF OF PERSONS ARRESTED IN CIVIL ACTIONS.

CHAPTER CI.

Of the Discharge of Prisoners as Insolvent Debtors.

Sec.

- 3843. Persons in arrest wishing to surrender property, to petition Courts, &c.
- 3844. Creditors to be summoned by public notice, &c.
- 3845. Court to examine as to discharge of prisoner. To tender oath, &c. Form of oath.
- 3846. Petitioner to be allowed certain property, &c., and the rest to be assigned, &c. Homestead allowed head of family.
- 3847. On making assignments, &c., prisoner to be discharged.
- 3848. Prisoner to be remanded for refusal to sign.
- 3849. Penalty for false schedules.
- 3850. Manner of summoning jury in cases of alleged fraud.
- 3851. Filling vacancies in panel.
- 3852. Liability for non-attendance of jurors.

Sec.

- 3853. Issues on exceptions to Clerk's rulings to be summarily heard by Judge.
- 3854. Fees allowed Clerk for hearing application.
- 3855. Fees allowed Sheriff.
- 3856. Proceedings in cases of appeal.
- 3857. Creditors allowed to examine applicants for discharge. Penalty for refusal to answer.
- 3858. Debtor to produce books, &c.
- 3859. Submission of issues to jury, &c.
- 3860. No discharge to be granted until the delivery of property to assignee.
- 3861. Expenses of imprisonment to be paid weekly in advance by plaintiff, or debtor discharged.

Persons in
arrest wishing
to surrender
property, to
petition
Courts, &c.

Civ. '02, §
3072.

Section 3843. Any person arrested on mesne or final process in any civil action, as provided by Chapter I, Title VII. of the Code of Procedure, being unable or unwilling to give the bail therein provided, may petition the Court of Common Pleas of the County wherein he is confined, certifying the causes of his arrest, together with an account of his real and personal estate, with the dates of the securities wherein any part of it consists, and the deeds, notes, or vouchers relating thereto, and the names of the witnesses to the same, as far as his knowledge extends therein.

The words "on mesne or final process" are inserted in the first line of this Section, on the authority of *Hurst, Purnell & Co. v. Samuels*, 29 S. C. 476;

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7 S. E., 822; in order to express the provisions of the Revised Statutes of 1872 held in that case to be unrepealed.

Such imprisonment is a punishment for the misconduct of the debtor, and may be modified or discharged at the pleasure of the Legislature without affecting the contract.—Lowden v. Moses, 3 McC., 93. Defendant entitled to this benefit, although guilty of fraud in obtaining goods for the value of which he is sued.—Fleming v. Close, 3 Strob., 862. Where debtor's bail surrender him he can take the benefit of the Section.—*Es parte* Ridgill, 5 Rich., 427. Where defendant has been discharged from arrest after he has filed his schedule and given notice to his creditors, he is not entitled to benefit of this Section.—Clarke v. Simpson, 1 McM., 286. Where debtor files his schedule under arrest in one case he need not file another under arrest in a second case.—Banks v. Ingram, 10 Rich., 28. That the description of the property in such schedule is vague and uncertain is no ground to oppose debtor's discharge, unless he refuse to amend it.—Yeakle v. George, 12 Rich., 153. The schedule may be amended after being filed.—Bingley v. Smart, 1 McC., 29; Prescott v. Hubbell, 2 McC., 64.

Sec. 3844. Upon such petition, the Clerk is hereby required, by order or rule, to cause the petitioner to be brought before the Court, and also the creditors at whose suit such person shall stand charged, as well as all other creditors to whom he shall be indebted, to be summoned by public notice, to be given three weeks at least in some newspaper of the County wherein the debtor is confined, and if there be no newspaper published in such County, then in some newspaper of general circulation therein, personally, or by their attorney, to appear before him, at a day for that purpose appointed, at or after the expiration of the said three weeks.

Creditors to be summoned by public notice, &c.

Civ. '02, § 3073.

The Clerk may issue the order or rule.—Bettis v. Nixon, 1 Strob., 148. Three weeks' notice necessary to entitle the debtor to the benefit of this law.—Alexander v. Gibson, 1 N. & McC., 480; George v. Catherwood, 1 McC., 339. Such notice is sufficient.—Cavan v. Dunlap, Chev., 241. Such notice must be published as required.—Mordecai v. LaRissey, 1 Rich., 192. It need not be published immediately after filing petition.—*Es parte* Cantey, 11 Rich., 520. The day should be certainly fixed by the notice.—Bettis v. Nixon, 1 Strob., 148.

Sec. 3845. Upon the day of such appearance, if any of the creditors so summoned shall neglect or refuse to appear, upon affidavit made of the service of such rule or order, in manner aforesaid, the Clerk shall, in a summary way, examine into the matter of the said petition, and hear what shall be alleged for or against the discharge of the said petitioner; and, upon such examination, the Clerk may, and is hereby required to, administer or tender to the petitioner an oath in the following words:

Court to examine as to discharge of prisoner. To tender oath, &c. Form of oath.

Civ. '02, § 3074.

"I, (A B), do solemnly swear that the account by me delivered into this Honorable Court, with my petition, doth

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contain a true and full account of all my real and personal estate, debts, credits, and effects whatsoever, without exception, which I, or any person in trust for me, have, or at the time of my said petition had, or am, or was, in any respect entitled unto, in possession, remainder, or reversion; and that I have not at any time since my being sued, arrested, or imprisoned, or before, directly or indirectly, sold, leased, assigned, or otherwise disposed of, or made over, in trust for myself or otherwise, other than is mentioned in such account, any part of my lands, estate, goods, stock, money, debts, or other real or personal estate, whereby to have or expect any benefit or profit to myself, or to defraud any of my creditors to whom I am indebted; and that I will, to the utmost of my power, endeavor to collect all and singular the title deeds to my lands, together with the remainder of my goods and effects contained in my said account, and the vouchers relating to or concerning the same, wheresoever, or in whosoever hands they may be within this State, and will surrender the same to my assignee or assignees as soon as possible after my discharge: So help me God."

Debtor allowed to swear at time of discharge, *nunc pro tunc*.—Brevard v. Wylie, 1 Rich., 138.

Petitioner to be allowed certain property, &c., and the rest to be assigned, &c. Homestead allowed head of family.

Civ. '02, § 3075.

Sec. 3846. In case the prisoner shall take the said oath, and upon examination the Clerk shall be satisfied with the truth thereof, he shall order the lands, goods, and effects contained in the said accounts, or so much of them as may be sufficient to satisfy the debts wherewith such petitioner shall be charged, and the fees of the keeper of the jail where he shall be in custody, together with the costs of suit which shall be incurred on the suit or prosecution commenced against him, and all other costs and fees which shall arise or become due upon prosecuting and obtaining his discharge, by a short indorsement on the back of his petition, signed by the petitioner, to be assigned to some suitable person, to be selected by the Clerk, as assignee for the benefit of the plaintiff and such creditors as may appear or establish claims against the debtor: *Provided, however,* That if the petitioner be the head of a family, there shall be reserved to him, out of his real and personal property, a homestead, and such articles as are exempt from attachment, levy and sale under the provisions of the Constitution and laws of this State.

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Such assignment vests in the assignee all the estate capable of being conveyed, whether vested or contingent.—Cohen v. Gibbes, 1 Hill, 206. Provided the assignee accepts the trust.—Tunno v. Edwards, 8 Brev., 510; Belden v. Pate, 12 Rich., 358; Brooks v. Brooks, 12 S. C., 422. A life estate passes by such assignment.—Verdier v. Youngblood, Rich. Eq. Ca., 220. The assignee takes the property subject to all circumstances and applies it to debts in order of rank.—Mairs v. Smith, 8 McC., 52; McLeish v. Tyler, 4 Strob., 287. And subject to any set-off existing before assignment.—Lowrie v. Williamson, 3 McC., 152.

Sec. 3847. The petitioner, upon executing such assignment, (and when he shall have delivered into the hands of the assignee or assignees all and singular his title-deeds, vouchers, and effects contained in his said account, so far as in his power so to do,) shall be forthwith discharged, by order, from such suit or suits, and shall also thenceforth be acquitted and discharged of, from and against all such other of his creditors as shall have appeared or established their demands before the Court, or assignee, for all debts, contracts, and demands whatsoever.

On making assignments, &c., prisoner to be discharged.
Civ. '02, § 3076.

The applicant for discharge must have strictly pursued the prescribed proceeding.—Carpenter v. Kennedy, 1 Brev., 25. Upon such assignment the debtor shall forever afterwards be so discharged.—Wall v. The Court, 1 Bay, 434. The discharge extends to suits in any Court.—Hunt v. Simons, 2 Bay, 104. And embraces judgments already obtained.—Mayrant v. Myers, 2 Mill, 419. A judgment entered in pending suit, after discharge, will be set aside.—Crane v. Martin, 4 Rich., 251. But the discharge is limited to suits pending and to creditors who may receive a dividend.—Duncan v. Brown, 1 McC., 375. So a suing creditor may discontinue his suit before discharge to avoid its effect upon him.—Gamble v. Jenkins, 12 Rich., 692. It does not bar suit on debts accruing after discharge, nor on those not sued on, nor on those receiving no dividend.—Duncan v. Brown, 1 McC., 375. It does not divest right of property acquired by creditor by virtue of mortgage debt before it is granted.—Hamilton v. Bredeman, 12 Rich., 464. It bars arrest again on the same debt against which it was allowed.—Man v. Lowden, 4 McC., 485. It operates to discharge the debtor's bail.—Saunders v. Bobo, 2 Bail., 492; Hibler v. Hammond, 2 Strob., 105.

Sec. 3848. In case any such debtor shall neglect or refuse so to do within the time aforesaid, it shall and may be lawful for the Judge of said Court, upon application upon oath, of the assignee or assignees, again to remand the said debtor to prison there to remain, unless good cause shall be shown by him or them to the contrary, until he shall fully comply with the terms of Section 3845 of this Chapter.

Prisoner to be remanded for refusal to assign.
Civ. '02, § 3077.

Without such order of the Court the debtor cannot be rearrested in same case.—Aiken v. Moore, 1 Hill, 432.

Sec. 3849. Any person who shall deliver in a false schedule of his effects shall suffer the penalties of wilful perjury, shall be liable to be arrested again for the action

Penalty for false schedules.
Civ. '02, § 3078.

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Manner of
summoning
jury in cases
of alleged
fraud.

Civ. '02, §
3079.

on which he was discharged, and shall forever be disabled to take any benefit from this Chapter.

Sec. 3850. Whenever a debtor in custody under the provisions of this Chapter shall be accused by the plaintiff of fraud, or of having given an undue preference to one creditor to the prejudice of another, or of having made a false return, it shall be lawful for the Clerk of the Circuit Court, who shall hear the prisoner's application, to place the names of twenty-four persons qualified as jurors in a box, and from them draw eighteen, and to direct the Sheriff of the County to summon the said eighteen whose names shall be thus drawn to attend at the place where the prisoner is confined, and at such time as the said Clerk shall appoint; and from them shall be drawn twelve in the same manner, who shall be empanelled to try the facts required by this Chapter.

Such accusation should be made upon suggestion, stating the facts.—*Fabre v. Zylstra*, 2 Bay, 147; *Sherman v. Barrett*, 1 McM., 147; *Rosser v. Moye*, 1 Rich., 62; *Ex parte Moffett*, 11 Rich., 358. But defendant may waive it.—*Baker v. Bushnell*, 1 McM., 66. After prisoner has been put on trial it is too late to object that legal notice of application has not been given.—*Rice v. Sims*, 3 Hill, 5. If the case is complicated it should be tried by a jury, otherwise it may be tried by the Court.—*Fabre v. Zylstra*, 2 Bay, 147. Any fraudulent device to swindle creditors is such a fraud.—*Hyams v. Valentine*, 4 Strob., 408. Fraudulent removal of goods bars the benefit of the Act.—*Wiley v. Lawson*, 7 Rich., 152; *Branden v. Gowing*, 7 Rich., 459. But when they are afterwards recovered by the creditors it does not.—*Mairs v. Smith*, Harp. 128. Fraud in contracting debt does not so bar.—*Fleming v. Close*, 3 Strob., 362. After suggestion of fraud has been filed, applicant cannot withdraw the application for discharge.—*Sherman v. Barrett*, 1 McM., 147. Unless he pay the debt for which he is arrested and costs.—*Sleeper v. Cohen*, 12 Rich., 112. Such preference does not deprive the prisoner of the benefit of the Act, unless it be fraudulent.—*Stover v. Duren*, 2 McC., 266; *Creyton v. Dickerson*, 3 McC., 438; *Dobson v. Teasdale*, 4 McC., 81; *Bulwinkle v. Gaube*, 5 Rich., 286. The question of undue preference must be decided by the jury.—*Weed v. Evans*, 2 Speer, 232. Conviction of a false return prevents the discharge of the prisoner.—*Dixon v. Vanezara*, 1 McC., 373; *McElmoyle v. Florence*, 2 McC., 24. Schedule may be amended at trial, if it appear that the omissions in it arose from ignorance, inadvertence or mistake, and it will not surprise or delay.—*Sherman v. Barrett*, 1 McM., 147; *Craig v. Pinson*, 2 Speer, 176. Finding that an assignment of some of his property, mentioned in schedule of defendant, was fraudulent, was not conviction of false return.—*Cavan v. Dunlap Chev.*, 241. But omission of such property altogether does make the return false.—*Brandon v. Rogers*, 10 Rich., 9. Clerk has the right to select the jury.—*Rice v. Sims*, 3 Hill, 5. And his discretion in regard to the notice and time of trial must govern.—*Ib.* Plaintiff cannot add new suggestions against the schedule after the issue has been made up.—*Bentley v. Page*, 2 McM., 52; *Morein v. Solomons*, 7 Rich., 97. The question of continuance is addressed to the discretion of the Clerk.—*Bentley v. Page*, 2 McM., 52. The verdict of "not guilty" finds the schedule to be true.—*Rice v. Sims*, 3 Hill, 5. The verdict of "guilty generally" on various charges of fraud is sufficient.—*Hyams v. Valentine*, 4 Strob., 408.

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Sec. 3851. If, from the eighteen persons so summoned, twelve cannot, from any cause, be empanelled, then the said Clerk is authorized to complete that number from the other freeholders originally selected.

Filling vacancies in panel.

Civ. '02, § 3080.

Sec. 3852. The freeholders so summoned shall be liable to the same objection, to be made by either party in the case, which may be made to jurors in the Court of Common Pleas, and shall be liable to the same for non-attendance without sufficient cause to which jurors are for non-attendance at the Courts, the said fines to be imposed by the Court of Common Pleas of the County; and it shall be the duty of the Clerk to return to the said Court the names of the freeholders who shall so neglect to attend, to be proceeded against as in the case of non-attending jurors.

Liability for non-attendance of jurors.

Civ. '02, § 3081.

Sec. 3853. In case exceptions be taken to any order or ruling of the Clerk while discharging the duties imposed by this Chapter, the issues therein may be summarily heard and tried by the Judge of the Circuit, or by any Circuit Judge then holding the Courts in such Circuit, or if there be no Judge within such Circuit, by any other Circuit Judge named in the notice for such hearing.

Issues on exceptions to Clerk's rulings to be summarily heard by Judge.

Civ. '02, § 3082.

Sec. 3854. The Clerk who may hear and determine the application of a debtor for the benefit of the provisions of this Chapter, shall, if the same be unlitigated, be entitled to receive the sum of two dollars out of the property that may be assigned, as a compensation for his services; and, whenever the same is litigated, the said Clerk shall be entitled to receive the sum of four dollars as a compensation for his services, out of the property of the debtor, if the final decision be against him; but if it be in his favor, then the said sum shall be paid by the plaintiff.

Fees allowed Clerk for hearing application.

Civ. '02, § 3083.

Sec. 3855. The Sheriff shall receive the sum of five dollars as a compensation for summoning the said freeholders, to be paid out of the property of the debtor, if his application be refused, and, if granted, to be paid by the plaintiff.

Fees allowed Sheriff.

Civ. '02, § 3084.

Sec. 3856. If the verdict of the jury aforesaid be in favor of the debtor, and the plaintiff should appeal, the debtor shall be entitled to be discharged from confinement, on his giving bond and sufficient sureties to the plaintiff, to be forthcoming and to abide by the decision of the Supreme Court; and if the said appeal shall be determined against

Proceedings in cases of appeal.

Civ. '02, § 3085.

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the debtor, and he be not surrendered (which the surety is hereby authorized to do) before the first day of the Circuit Court next succeeding the determination of such appeal; then the Clerk of the Court shall, on the application of the plaintiff or his agent, forthwith issue an order on the said bond against the prisoner and his sureties, as in cases of estreated recognizances; but in case the said prisoner should appear, or be surrendered, as aforesaid, then the said Clerk shall forthwith proceed with the case as provided in the preceding Sections.

No appeal lies except from such verdict of jury.—*Martin v. Stribling*, 3 Speer, 65. Notice of such appeal may be given after judgment on verdict.—*Bulwinkle v. Grube*, 5 Rich., 286. Upon judgment granting his discharge the prisoner is entitled to go at large, pending appeal.—*Baker v. Bushnell*, 1 McM., 272; *Bulwinkle v. Grube*, 5 Rich., 286. But upon renewal of appeal he must return to prison or forfeit his right to discharge.—*Id.*

Creditors allowed to examine applicants for discharge. Penalty for refusal to answer.

Civ. '02, § 3086.

Sec. 3857. It shall and may be lawful for the creditor or creditors of any person applying for the benefit of this Chapter, either in person or by attorney, to examine and cross-examine such applicant, on oath, in the presence of the Judge, or the Clerk of the Court, before whom he shall move for his discharge from imprisonment, touching the truth of his schedule, and touching the nature and extent of his property, rights, and credits, liable to be assigned for the benefit of his creditors. And the refusal of any such applicant to answer, fully and directly, all or any proper questions put to him in the course of such examination, shall prevent his discharge, if otherwise entitled thereto, until he shall have fully answered the same.

Rosser v. Moye, 1 Rich., 62; *Fleming v. Close*, 3 Strob., 362. Such examination by the creditor may be followed by his filing suggestions of facts to be tried by the jury.—*Ex parte McDonald*, 13 Rich., 250.

Debtor to produce books, &c.

Civ. '02, § 3087.

Sec. 3858. If, on such examination, it should appear that he has kept books, in relation to his trade, profession, or occupation, he shall be required to produce the same, if in his possession or power; and, on failure to do so, he shall be deprived of his discharge until he shall produce the same.

Submission of issues to jury, &c.

Civ. '02, § 3088.

Sec. 3859. Nothing contained in this Chapter shall be construed to deprive a judge, sitting in open Court, of the power to submit to the jury already empanelled all issues arising under Section 3850 of this Chapter, in the same manner as is now practiced; but in all cases where the

plaintiff shall appeal, the defendant shall be entitled to his enlargement, pending the appeal, on the terms prescribed in Section 3856 of this Chapter.

Sec. 3860. In all cases where a debtor applies for his discharge, the Judge, or Clerk of the Court, before whom the application shall be made, shall not discharge him from the confinement until the property contained in his schedule is produced and delivered to the assignee, if it be, or has been, within the power of the debtor to deliver the same since the time of his arrest.

No discharge to be granted until the delivery of property to assignee.

Civ. '02, § 3089.

It is not in power of debtor to deliver property removed to another State, and he must be discharged unless it was fraudulently removed.—Martin v. Stribling, 2 Speer, 65.

Sec. 3861. Every debtor arrested and held in the custody of the Sheriff, under the provisions of this Chapter, shall be maintained in the common jail at the expense and charge of the person causing the arrest. And if such charges are not paid to the keeper of the jail weekly, in advance, the Clerk or Judge may, upon proper evidence thereof, direct that such debtor be released from further custody.

Expenses of imprisonment to be paid weekly in advance by plaintiff, or debtor discharged.

Civ. '02, § 3090.

The charges for keeping such debtor in the common jail shall be the same as are allowed by law for dieting prisoners confined under process in the Court of Sessions; and if the plaintiff recover judgment against the debtor, or an assignment of his effects be made as herein provided, such charges may be recovered as disbursements in the action, or paid out of the estate assigned, before any dividend is declared.

Schroter v. Crawford, 1 Hill, 422; Love v. Lowry, 1 McC., 181; Brian v. Ellis, Dud., 71.

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TITLE VI. OF LEGAL NOTICES, LEGAL HOLIDAYS, AND COSTS AND FEES.

CHAPTER CII. *Publication of Legal Notices; Legal Holidays.*

CHAPTER CIII. *Costs and Fees of Attorneys and Other Officers.*

CHAPTER CII.

Publication of Legal Notices; Legal Holidays.

SEC.

3862. Charges for advertising legal notices; advertisement of sales, &c.

3863. Special provisions in certain Counties.

3864. Notices of legal sales, time to be advertised.

3865. Legal holidays.

SEC.

3860. Holidays in Charleston County; half holidays on Saturday; demand for acceptance or payment; proviso.

3867. Certain Mondays in Charleston County declared to be holidays; proviso; notes when payable.

Charges for legal advertisements regulated.

Civ. '02, § 8091.
1902, XXIII, 1074.
1905, XXIV, 847.

Section 3862. State and County officials authorized by law to publish advertisements in the newspapers of this State, including sales of real and personal property, by Masters, Clerks of Court, Judges of Probate, and Sheriffs, citations, notices to creditors, and notices of final settlement by executors, administrators and guardians, and all other persons acting in a fiduciary capacity, together with all other advertising done by order of any Court, including service of summons by publication, notices of election ordered by Commissioners, reports of County Treasurers, Supervisors, Superintendents of Education, notices of County Auditors, proclamations of the Executive Department, proposals for works and supplies by the heads of departments, or other officials authorized to advertise for competitive bids, and all other advertising whatever by State and County officials, shall be charged not exceeding one dollar per inch for the first insertion, and not exceeding

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ty cents per inch for each subsequent insertion, the said advertisements to be set solid brevier type, including the caption, and all other parts of said advertisements: *Provided*, That newspapers using other than brevier type shall receive compensation based on brevier measure: *Provided, further*, That all accounts rendered for printing shall be under such that such accounts are in accordance with the requirements of this Chapter: *Provided, further*, That when the value of the estate as to which such advertisement is made is less than two hundred dollars, only one-half the rate hereinbefore allowed shall be charged or allowed; and when the value of such estate is less than one hundred dollars, only one-fourth of the rates hereinbefore allowed shall be charged or allowed: *Provided, further*, That if the proprietors or managers of the newspapers in any County shall refuse to insert such advertisements in their newspapers at the rates hereinbefore allowed, the same shall be posted at least three public places in the County, one of which shall be at the Court House door: *And provided, further*, That the reports of County Treasurers and Supervisors shall not exceed sixty dollars each per annum: *Provided*, That the publication of any of the notices therein mentioned may be by contract for not more than prices herein mentioned: *Provided*, The provisions of this Chapter shall not apply to Charleston and Florence Counties.

Sec. 3863. In the said Counties of Charleston and Florence, the pay for advertisements of notices of elections, rewards, reports and all other matters required by law to be published, shall be paid for at the rate of one dollar per one hundred words for the first insertion and fifty cents per one hundred words for each subsequent insertion: *Provided*, That the caption to notices shall be at the rate of five cents per word.

Sec. 3864. All notices for the sale of any real estate under execution or order of Court shall be advertised for twenty-one days, that is to say, once a week for at least three weeks, prior to such sale; and all notices for such sales of personal property, unless otherwise specially ordered, shall be advertised for fifteen days, that is to say, once a week for two weeks, before such sale.

Special provisions in certain Counties.

Length of time legal sales shall be advertised.

Civ. '02, § 3093.

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Advertisement in weekly newspaper in three successive issues next preceding the day of sale, sufficient.—*Ex parte* Alexander, 35 S. C., 409; 14 S. E., 444.

Legal holidays.

Civ. '02, § 3094.

Sec. 3865. National Thanksgiving days and all general election days, and also the first day of January, the thirtieth day of January, the twenty-second day of February, the tenth day of May, the third day of June, the fourth day of July, the first Monday in September and the twelfth day of December in each and every year shall be legal holidays: *Provided*, That nothing herein contained shall be so construed as to affect judicial sales as now provided by law, or any other legal transaction, on the first Monday in September.

Thursday of Fair week a holiday in Counties in which Fair is held.

1906, XXV, § 110.

Sec. 3866. Thursday of Fair Week in each and every year shall be, and is hereby, constituted a legal holiday in all the Counties in the State wheresoever the State Agricultural and Mechanical Society holds an annual fair.

Judicial proceedings on a holiday not illegal.—*Mitchell v. Bates*, 57 S. C., 44; 35 S. E., 420; *Hiller v. English*, 4 Strobb., 486. Contracts executed on Sunday not void.—*Hellams v. Abercrombie*, 15 S. C., 110; *Mills v. Williams*, 16 S. E., 593.

Special provision as to holidays in Charleston and Richland Counties.

Civ. '02, § 3095. 1903, XXIV, 107.

Half holiday on Saturday for certain purposes.

Sec. 3867. In Charleston and Richland Counties, the holidays mentioned in the last preceding Section, and all other days which may at any time hereafter be made a public holiday by law, and every Saturday from twelve noon until twelve midnight, which is hereby appointed a half holiday, shall for all purposes whatsoever, as regards the presenting for payment or acceptance, and the protesting and giving notice of the dishonor of bills of exchange, bank checks and promissory notes made after the passage of this Section, be treated and considered as the first day of the week, commonly called Sunday, and as public holidays or half holidays; and all such bills, checks and notes otherwise presentable for acceptance or payment on such public holidays, shall be presentable for acceptance or payment on the secular or business day next succeeding such holiday; but in the case of a half holiday, such bills, checks and notes shall be presentable for acceptance or payment at or before twelve o'clock noon of that day: *Provided, however*, That for the purpose of protesting or otherwise holding liable any party to any bill of exchange, check or promissory note, and which shall not have been paid before twelve

Demand for acceptance or payment.

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check at noon any Saturday, a demand of acceptance or payment thereof may be made, and notice of protest or dishonor thereof may be given after twelve o'clock noon on Saturday, or on the next succeeding secular business day: *And provided, further,* That when a person shall receive for collection any check, bill of exchange, promissory note, due and presentable for acceptance or payment on any Saturday, such person shall not be deemed guilty of any neglect or omission of duty, nor incur any liability in not presenting for payment, or acceptance, or collecting, such check, bill of exchange or promissory note on that day: *And provided, further,* That in construing this Section, every Saturday, unless a whole holiday aforesaid, shall, until twelve o'clock noon, be deemed a secular or business day: *Provided, further,* That in construing this Section every Saturday unless a whole holiday aforesaid shall until twelve o'clock noon be deemed a secular business day: *Provided, further,* That nothing herein contained shall render illegal any business which any bank or other corporation or person shall see fit to transact on any Saturday after twelve o'clock at noon.

Whenever any of the legal holidays mentioned in Section 65 shall fall upon Sunday, the Monday next following shall be deemed a public holiday for all or any of the purposes aforesaid: *Provided, however,* That in such case all bills of exchange, checks and promissory notes made after the passage of this Section, which would otherwise be presentable for acceptance or payment on the said Monday, shall be deemed to be presentable for acceptance or payment on the secular or business day next succeeding holiday.

Failure to
present or
demand on
Saturday.

Saturday
forenoon.

Certain Mon-
days declared
to be holi-
days.

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CHAPTER CIII.

Costs, Fees and Salaries of County Officers.

SEC.

3866. Costs to follow result of actions; exception.
 3867. Costs in criminal cases where venue is changed.
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 3874. Fees of Clerk of Court and Register of Mesne Conveyance in other Counties.
 3875. Fees of Clerk of Court in Orangeburg County, recording papers.
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3883. Fees Clerks of Courts in Pickens County.
 3884. Fees of Clerk of Court Sumter County.
 3885. Fees of Referees.
 3886. Fees of Masters.
 3887. Fees of Probate Judges generally.
 3888. Fees of Probate Judge in Anderson County.
 3889. Fees of Judge of Probate Union County.
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 3891. Fees of Magistrates.
 3892. Fees of Sheriff, generally.
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 3894. Fees of Constables, generally.
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 3896. Fees of Notaries Public.
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 3898. Fees of Physicians.
 3899. Fees of Deputy Surveyors.
 3900. Fees of County Auditors.
 3901. Fees of Appraisers.
 3902. Fees penalty for excessive charges, &c.
 3903. Fees of witnesses in civil cases.
 3904. Fees of witnesses in criminal cases.

Costs to follow event of action, except in chancery cases when otherwise ordered; proviso.

Civ. '02, § 3096.

Section 3866. In every civil action commenced or prosecuted in the Courts of record in this State (except cases in chancery) the attorneys of plaintiff or defendant shall be entitled to recover costs and disbursements of the adverse party, as prescribed in this Chapter, such costs to be allowed as of course to the attorneys of plaintiff or defendant, and all officers of the Court thereto entitled, accordingly as the action may terminate, and to be inserted in the judgment against the losing party. In cases in chancery, the same

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rule as to costs shall prevail, unless otherwise ordered by the Court: *Provided*, That wherever, in any action for assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation or seduction, or in any other action for damages for torts, the amount recovered shall be less than one hundred dollars, the total amount of costs and disbursements shall not exceed the amount so recovered in the action.

The right to costs is purely statutory.—*Kershaw Co. v. Richland County*, 61 S. C., 75; 29 S. E., 263; *Whittle v. Saluda Co.*, 56 S. C., 506; 35 S. E., 203; *Green v. Anderson Co.*, 56 S. C., 411; 34 S. E., 691; *Hightower v. Bamberg Co.*, 54 S. C., 536; 32 S. E., 576; *Lancaster v. Barnwell Co.*, 40 S. C., 446; 19 S. E., 74; *Carolina National Bank v. Senn*, 25 S. C., 572. Costs are in the nature of penalties.—*Kershaw Co. v. Richland Co.*, 61 S. C., 75; 39 S. E., 263; *State v. Co. Treas.*, 10 S. C., 48; *Lancaster v. Barnwell Co.*, 40 S. C., 445; 19 S. E., 74; *Thompson v. Farr*, 1 Rich. L., 4. Costs are governed by the fee bill in force at time of verdict or order for judgment.—*Kapp v. Lyons*, 13 S. C., 288; *Benbow v. Richardson*, 21 S. C., 602. Taxation of costs must await final judgment when Circuit decree has been reversed.—*Addison v. Duncan*, 35 S. C., 165; 14 S. E., 305. Costs and disbursements should be inserted in the judgment.—*Lewis v. Brown*, 16 S. C., 58. Fees of officers of Court and witnesses should be taxed to them as costs, if not paid by the party.—*Lewis v. Brown*, 16 S. C., 58; *Cureton v. Westfield*, 24 S. C., 457; *Dauntless Co. v. Davis*, 24 S. C., 536. But if so paid by him they are considered as disbursements by the prevailing party.—*Lewis v. Brown*, 16 S. C., 58; *Cureton v. Westfield*, 24 S. C., 457; *Dauntless Co. v. Davis*, 24 S. C., 536. Disbursements should be taxed under fee bill of force at time incurred.—*Lewis v. Brown*, 16 S. C., 58. Expenses of keeping property taken in claim and delivery is properly a disbursement to be taxed by Clerk.—*Addison v. Sugette*, 60 S. C., 58; 39 S. E., 229; *Railway Co. v. Sheppard*, 42 S. C., 543; 20 S. E., 481. Disbursements do not bear interest before taxation.—*Addison v. Sugette*, 60 S. C., 58; 38 S. E., 229. The right to disbursements was not affected by the repeal of the Act allowing attorney's costs.—*Durham Fertilizer Co. v. Glenn*, 48 S. C., 494; 26 S. E., 796. What are disbursements.—*Id.* Printing arguments for Supreme Court.—*McElwee v. Kennedy*, 59 S. C., 335; 37 S. E., 920. Disbursements should be verified by affidavit.—*Id.*; *Cureton v. Westfield*, 24 S. C., 457. Points and authorities in Supreme Court are taxable as disbursements.—*Elder v. R. R.*, 15 S. C., 610. But copying of case for printer is not so taxable.—*Id.* The payment of costs in cases in chancery is within the discretion of the Court.—*Mars v. Connor*, 4 S. C., 70; *Nimmons v. Stewart*, 18 S. C., 445; *Cooke v. Pennington*, 15 S. C., 185; *Winsmith v. Winsmith*, 15 S. C., 611; *Childs v. Frazee*, 15 S. C., 612; *Jacobs v. Bush*, 17 S. C., 595; *Pearson v. Carlton*, 18 S. C., 47; *Bratton v. Massey*, 18 S. C., 555; *Lake v. Shumate*, 20 S. C., 23; *Hand v. R. R.*, 21 S. C., 162; *Covar v. Sallat*, 22 S. C., 265; *Johnson v. Pelot*, 24 S. C., 264; *Gary v. Barnwell*, 24 S. C., 595; *McAfee v. McAfee*, 28 S. C., 218; 5 S. E., 593; *Bean v. Bean*, 28 S. C., 607; 5 S. E., 827; *Alexander v. Meroney*, 30 S. C., 335; 9 S. E., 266; *Geddes v. Hutchinson*, 40 S. C., 402; 19 S. E., 9; *Younger v. Massey*, 41 S. C., 50; 19 S. E., 125; *Brown v. Brown*, 44 S. C., 378; 22 S. E., 412. Plaintiff should not be required to pay costs incurred in a contest between co-defendants.—*McCrary v. Jones*, 36 S. C., 138. Pretended purchaser resisting action for foreclosure should pay costs.—*Dendy v. Waite*, 36 S. C., 569; 15 S. E., 712. If Circuit Court makes no order as to such costs the Supreme Court will not.—*Walker v. Walker*, 17 S. C., 339; *Harbin v. Parker*, 19 S. C., 598; *Scott v. Alexander*, 23 S. C., 120; *Johnson v. Pelot*, 24 S. C., 255; *Webb v. Chisolm*, 24 S. C., 487; *Gary v. Barnwell*, 24

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S. C., 595. The reversal on appeal of a decree which directs the payment of the costs sets aside this direction, although it is not made a ground of appeal.—*Bratton v. Massey*, 18 S. C., 555. In actions for the benefit of persons unable to contract, or by one of a class for the benefit of all, the costs and disbursements should be apportioned and paid out of the fund in Court.—*Nimmons v. Stewart*, 13 S. C., 445; *Roberts v. Johns*, 24 S. C., 580. But where there are liens upon part of the fund, costs are primarily chargeable upon the unencumbered part.—*Baxter v. Baxter*, 23 S. C., 114. An appeal lies from a judgment, in an action at law, as to taxation of costs.—*Stegall v. Bolt*, 11 S. C., 522; *Dilling v. Foster*, 21 S. C., 340; *Dauntless Co. v. Davis*, 24 S. C., 539. An appeal alleging error of law may be taken from an order made upon the sole question of costs in a chancery case.—*Scott v. Alexander*, 23 S. C., 120. But the Supreme Court has no original jurisdiction as to costs.—*Huff v. Watkins*, 20 S. C., 479.

Witnesses fee when paid by party to be taxed as a disbursement.—*Mitchell v. Barrs*, 64 S. C., 197; 41 S. E., 962. Costs in chancery cases, discretion of court.—*Cauthen v. Cauthen*, 81 S. C., —; 62 S. E., 319.

Costs in criminal cases where venue is changed.

1902, XXIII, 1087.

Sec. 3867. Whenever a criminal case is transferred from one County to another for trial, all the costs of such trial shall be paid by the County in which the bill of indictment was found; such costs to be certified to such County by the Clerk of the Court of the County in which such trial is had.

Costs in partition, when property does not exceed \$1,000 in value, and in foreclosure when property does not exceed \$500.

Civ. '02, § 3097.

Sec. 3868. All allowances for costs prescribed by this Chapter to which the provisions of this Section are applicable shall be subject thereto.

1. The costs allowed by law in all cases of partition where the property sought to be partitioned does not exceed one thousand dollars in value, and in actions for foreclosure of mortgage where the amount claimed does not exceed five hundred dollars, shall be one-half of the cost allowed in cases where the value exceeds those sums, and this provision shall apply to all cost in the cause.

Applies to Master's commissions.—*Bryan v. Beama*, 37 S. E., 921; 59 S. C., 340. Restricted to the actions named.—*Williams v. Washington*, 43 S. C., 355; 21 S. E., 259.

Costs and expenses settlement estates under \$100.00.

2. All the items of cost and expenses allowed by law in the administration and settlement of estates, where the amount of such estate is less than one hundred dollars, shall be one-half the amount as now provided by law.

Costs for references.

3. Costs for references shall only be taxed for the number of days which the Master shall certify to have been unavoidably necessary, and no costs shall be taxed for references where no testimony has been taken, or argument had.

Costs only to successful party.

4. No costs shall be allowed to any party unless he succeed, in whole or in part, in his claim or defence, unless otherwise directed by the Judge hearing the cause. No costs

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shall be allowed for proving uncontested claims; and in proving other claims by attorneys not of record, no costs shall be allowed except for the days in which the Master or Referee is occupied in taking proof for or against such claim.

Costs on proving claims.

5. The Master, special Master, or Referee shall be entitled to three dollars for each reference, and the work of one day shall constitute a reference, without regard to the number of claims presented and passed upon.

Costs to Master, &c., for references.

What shall constitute a reference.

6. No constructive mileage shall be allowed, but in all cases costs for mileage shall only be taxed for the number of miles actually traveled.

Costs for mileage.

Sec. 3869. When an appeal is taken to the Supreme Court of this State, the following costs shall be allowed in all classes of cases legal or equitable: for the plaintiff's or defendant's attorneys, for making and serving a case or a case containing exceptions, ten dollars; for procuring an Order of Injunction, five dollars; on argument in the Supreme Court, twenty-five dollars.

Attorneys' costs in appeal to Supreme Court, &c.

Civ. '02, § 3098.

Includes appeals in proceedings in prohibition.—*State ex rel. Bartless v. Town Council of Beaufort*, 47 S. C., 225; 25 S. E., 38. The costs of appeal in Supreme Court are to be taxed in favor of party prevailing there, irrespective of result of case below.—*Cleveland v. Cohns*, 13 S. C., 397; *Sullivan v. Latimer*, 43 S. C., 262; 21 S. E., 3. Whether for appellant in action.—*Huff v. Watkins*, 25 S. C., 243. Or for respondent in a special proceeding.—*Sease v. Dobson*, 36 S. C., 554; 15 S. E., 703, 704. They are to be taxed under fee bill in force at the time the appeal is determined.—*Winsmith v. Dewberry*, 18 S. C., 554. Former Act as to costs on appeal, under which costs for making and serving case were not allowed.—*Finley v. Cudd*, 45 S. C., 87; 22 S. E., 753.

Where, for convenience, three cases are heard together, costs may be taxed in each for preparation of case and argument.—*Baker v. Irvine*, 64 S. C., 430; 42 S. E., 194. Applies to appeal from justice at chamber.—*Western Union Tel. Co. v. Winnsboro*, 72 S. C., 42; 51 S. E., 528.

Ketchin v. Rion, 72 S. C., 153; 51 S. E., 557. Attorneys fees.—*Cauthen v. Cauthen*, 76 S. C., 226; 56 S. E., 978; *Park v. Laurens*, 68 S. C., 212; 46 S. E., 1012; *Ex parte Fort*, 33 S. C., 19; 15 S. E., 333; *Butler v. Butler*, 73 S. C., 402; 53 S. E., 646; *Westmoreland v. Martin*, 73 S. C., 402.

Sec. 3870. In actions which were pending, or on existing contracts which were liquidated, on the 12th day of January, 1893, attorneys shall also be entitled to the following costs:

Plaintiff's attorney.

Civ. '02, § 3099.

1. *Plaintiffs' attorneys' costs, when entitled thereto, shall be as follows:* For rule on Sheriff or other officers of the Court, three dollars; for issuing summons, four dollars; for issuing complaint, four dollars, for entering up judgment and issuing execution, three dollars; where special bail is

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required, one dollar; for every subpoena writ and ticket one dollar; for every renewal of execution, one dollar; for every demurrer or joinder in demurrer, three dollars; for every motion for a new trial, when granted, five dollars; for every trial of the cause in the circuit, five dollars; for every commission to examine witnesses or filing cross-interrogations, or for issuing writ of partition, eight dollars; proceedings before trial on appeal from Magistrate Court, three dollars; for trial of the cause, five dollars, except when the amount sued for is under twenty dollars, only two dollars and fifty cents for trial; for all proceedings in dower, from beginning to end, twenty dollars; for cases in attachment, in addition to common costs, ten dollars; for the jury in each case tried, one dollar; for examination of a party or witnesses before trial, three dollars; for proceedings in cases where the summons is served by publication, four dollars; and for each necessary copy complaint served, where there is more than one defendant, two dollars; where the summons is served by publication, four dollars; and for each necessary copy complaint served, where there is more than one defendant, two dollars.

Defendant's
attorney.

2. *Defendants' Attorneys' costs, when entitled thereto, shall be as follows:* For giving notice of appearance when necessary, four dollars; for answer or demurrer, four dollars; for entering up judgment and issuing execution, three dollars; for trial of the cause on the circuit, five dollars; to the jury, one dollar; for motion for new trial, when granted, five dollars; for every commission to examine witnesses or filing cross-interrogations, eight dollars; for all proceedings before trial on appeal from Magistrate Court, three dollars; for trial of the cause, five dollars; when the amount sued for is under twenty dollars, only two dollars and fifty cents to be charged for trial; for subpoena writ and ticket, one dollar.

Attorney's
costs in equity
cases.

3. In equity cases, which were pending, or on contracts which were liquidated on the 12th day of January, 1893, attorneys shall receive the same costs allowed in actions at law, and also for the appointment of a guardian or guardians *ad litem* for an infant, ten dollars; one attorney representing all the infants in a cause to charge only ten dollars for the appointment of a guardian *ad litem* for

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them; for exceptions to Clerk's, Master's, or Referee's report, five dollars; for each day attending before Clerk, Master, or Referee on reference, five dollars: *Provided*, That no attorney shall be allowed to tax costs both as plaintiff's and defendant's attorney; and that costs of reference shall not be taxed for more than six days.

To what actions restricted.—Powell v. Pearlstine, 48 S. C., 403; 21 S. E., 328.

Action on note executed in 1882, with allegation of new promise by payment since 1892, is an action which was liquidated prior to 1892.—Bolt v. Gray, 64 S. C., 432; 42 S. E., 200. Costs on appeal from Magistrate's Courts.—Salley v. S. A. L. Ry., 79 S. C., 454; 60 S. E., 1123.

Sec. 3871. The several officers hereinafter named shall be entitled to receive and recover the fees and costs prescribed by this Chapter, and none other, for the services herein enumerated.

Fees and costs of certain officers.

Civ. '02, § 3100.

Sec. 3872. *Secretary of State.*—For every search, fourteen cents; for entering satisfaction on a mortgage, twenty-one cents; for recording a mark or brand, twenty-one cents; for recording or copying any writing, for every copy-sheet containing ninety words, nine cents; for making out a grant of lands, recording and fixing the great seal, two dollars and fourteen cents; for a testimonial with the great seal, one dollar and seven cents; for registering the certificate of a person becoming a denizen, twenty-five cents; for a family, not exceeding three, fifty cents; for a family exceeding three, one dollar; for commissioning a Notary Public or Commissioner of Deeds, three dollars and twenty-five cents.

Secretary of State.

Civ. '02, § 3101.

For fees for granting charter, or amendment to charter, of Charitable, Social and Religious Societies see Secs. 1890 and 1904; filing petition for corporation of business corporations, Sec. 1881; issuing charters to same, Sec. 1888; foreign Railroad corporations, Sec. 1791; recording railroad deeds, leases, mortgages and other instruments in writing, Sec. 636.

Sec. 3873. Except in the Counties of Bamberg, Barnwell, Beaufort, Clarendon, Colleton, Dorchester, Marlboro, Orangeburg, Pickens, Spartanburg, York, Georgetown, Fairfield, Greenville, Richland, Berkeley, Union and Horry the following fees shall be allowed to Clerks of Courts in this State, in lieu of all fees now allowed by law: For recording a deed to or a mortgage on real estate, with or without renunciation of dower, and certifying same on the back thereof, seventy-five cents: *Provided*, Such deed or mortgage does not exceed fifteen hundred words, in which

Fees of Clerks of Court for recording papers.

Civ. '02, § 3102. 1909, XXVI, 79.

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case they shall be entitled to receive and collect an additional sum of eight cents per hundred words on all words over one thousand; for recording each chattel mortgage over one hundred dollars and certifying same on the back thereof, fifty cents: *Provided*, Such chattel mortgage does not exceed one thousand words, in which case they shall be entitled to charge and receive an additional sum of eight cents per hundred words on all words over one thousand; for indexing each chattel mortgage under one hundred dollars, and certifying same on the back thereof, ten cents; for indexing each agricultural lien, and certifying same on the back thereof, ten cents; for recording each lien and mortgage combined, and certifying the same on back thereof, fifty cents; for entering each satisfaction on the record of a mortgage of real estate or a chattel mortgage, and certifying same on the back thereof, ten cents; for recording or copying plats of not more than six corners, seventy-five cents; for every corner over, six cents; for every probate in writing, twenty-five cents; for every certificate, except the certificate on the backs of paper recorded by them, and certificates of judicial records in their offices required for the Court or a Judge thereof, twenty-five cents; for recording any other paper required by law to be recorded, except judicial records, eight cents per hundred words.

Registers of
Mesne Con-
veyances.

Civ. '02, §
3103.

Sec. 3874. The Clerks of Court in all the Counties excepted from the operation of the preceding Section, except Orangeburg, and the Register of Mesne Conveyance in Charleston County shall receive: For recording and copying deeds and other papers, per copy sheet of one hundred words, ten cents; for entering satisfaction on mortgages, twenty-five cents; for recording or copying plats of not more than six corners, one dollar; for every corner more than six, six cents; for every probate in writing, twenty-five cents; for every certificate other than that mentioned in Section 3106, twenty-five cents; for filing, indexing and certifying any bill of sale, chattel mortgage, or other instrument in the nature of lien on personal property, where the amount secured is not more than one hundred dollars, fifteen cents: *Provided*, That the Register for Charleston, and Clerk of Court for Beaufort County shall also be allowed ten cents for every search.

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Sec. 3875. In Orangeburg County the Clerk of Court shall receive: For recording and copying deed and other papers, per copy sheet of ninety words, six cents; for entering satisfaction on mortgages, ten cents; for recording or copying plat of not more than six corners, sixty-five cents; for every corner more than six, six cents; for every probate in writing, fifteen cents; for every certificate, fifteen cents.

Special provisions as to Clerk of Court in Orangeburg for recording papers.

Civ. '02, § 3104.

Sec. 3876. The law as to the fees to be received by the Clerk of Court and Register of Mesne Conveyance for Dorchester County shall be as now provided by law, except as hereinafter provided, to wit: For filing lien, fifteen cents; for indexing mortgage personal property, fifteen cents; for recording bill of sale, fifty cents; for recording and filing lien with mortgage, one dollar; for recording deed without dower, one dollar; for recording deed with dower, one dollar and twenty-five cents; for recording mortgage real estate (usual form), without dower and without insurance tax and attorney fee, one dollar; for recording the same with dower, one dollar and twenty-five cents; for recording mortgage real estate (usual form), with insurance tax and attorney's fees, without dower, one dollar and twenty-five cents; for the same with dower, one dollar and fifty cents; for recording satisfaction, fifty cents; for entering satisfactions before the clerk, twenty-five cents; for recording transfers, fifty cents; for recording bonds, one dollar and twenty-five cents; for recording charters (usual form), one dollar and fifty cents; for recording any other paper required to be recorded, at the rate of ten cents for every hundred words.

Costs and fees of Clerk of Court of Dorchester County.

Civ. '02, § 3103, amended.

Sec. 3877. The Register of Mesne Conveyances of Greenville County shall receive a salary of fifteen hundred dollars per annum, in lieu of all fees and charges for filing and recording papers, which salary shall be paid to him monthly by warrant of the County Commissioners on the County Treasurer, to be paid out of the funds hereinafter required to be paid by said Treasurer, from fees for recording and filing papers, any deficiency to be paid out of the County funds in his hands not otherwise appropriated.

Special provisions as to the salary and fees of Register of Mesne Conveyances in Greenville County.

Civ. '02, § 3105. 1907, XXV, 544.

The said Register of Mesne Conveyances shall charge, collect and keep an accurate itemized account of all fees for recording for individuals, companies or corporations, the

Account of fees.

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To be paid
over weekly.

Disposition.

Fees of Reg-
ister of Mesne
Conveyance of
Greenville
County.

same as now allowed by law, and to pay the same over weekly to the County Treasurer, taking his receipt for the same; that out of the funds thus realized, the County Treasurer shall pay the monthly warrant for salary of said Register, carrying any surplus of such fund to ordinary County purposes.

The Register of Mesne Conveyances for Greenville County shall hereafter be entitled to charge and receive the following fees, to wit: For recording deed to real estate, with or without renunciation of dower, and certifying same on the back thereof, seventy-five cents; for recording each mortgage on real estate, with or without renunciation of dower, and certifying same on the back thereof, seventy-five cents: *Provided*, Such deed or mortgage does not exceed fifteen hundred words, and he shall be entitled to receive and collect an additional sum of eight cents for every hundred words in excess thereof; for recording each chattel mortgage in excess of one hundred dollars and certifying the same on the back thereof, fifty cents: *Provided*, Same does not exceed one thousand words, and he shall be entitled to receive and collect the sum of eight cents for every one hundred words in excess thereof; for indexing each chattel mortgage for one hundred dollars or less, and certifying the same on the back thereof, ten cents; for indexing each agricultural lien and certifying the same on the back thereof, ten cents; for recording or copying plats of not more than six corners, one dollar; for every corner more than six, six cents: *Provided*. That no charge shall be made for space in plat books, where plats are copied therein by other persons; for every probate in writing, twenty-five cents; for every certificate, twenty-five cents, except the certificate entered on the back of a paper recorded by him. He shall be allowed ten cents for every search made by him in his office, and for recording any other paper required by law to be recorded in his office, eight cents for every one hundred words.

To charge
cash for work.

It shall be unlawful for the Register of Mesne Conveyances of Greenville County to receive or to file for record or to record any instrument unless the same be accompanied by the full fees, in cash, for the filing and registry thereof.

Fees to be
paid in ad-
vance.

The said Register of Mesne Conveyances is hereby authorized to require the payment of his fees in advance, and he

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may refuse to receive any paper for record before the payment of his fees, and may refuse to do any work required by law to be done by him until the payment of his fee for the same: *Provided*, That if he shall receive any paper for record without requiring the payment of his fee in advance, he shall record the same and shall be responsible for the fee. Personally responsible on failure to collect fee.

Sec. 3878. Whenever any instrument in writing required by law to be filed and recorded has been so recorded, the Clerk or Register shall endorse on said instrument a certificate showing the date of filing and the book and page where recorded, and for this certificate no fee shall be charged or collected. What endorsement to be made on paper recorded. Civ. '02, § 3106.

Sec. 3879. (1). Clerks of the Courts of Common Pleas and General Sessions, except in the Counties of Anderson, Edgefield, Orangeburg, Pickens and Spartanburg, shall receive: For signing and sealing summons, fifty cents; for filing complaint, fifty cents; for filing each answer, demurrer, or rejoinder in demurrer, twenty-five cents; for signing and sealing subpoena writ, fifty cents; for docketing a cause, one charge only at each term, fifteen cents; for attending the trial of a cause, (whether civil or criminal,) and swearing witnesses, fifty cents; for entering verdict or other order for final judgment on the minutes of the Court, twenty-five cents; for special order for bail, fifty cents; for filing and entering on the journal every rule or order for arbitration, twenty-five cents; for filing affidavits for continuance when ordered by the Judge, twenty-five cents; for signing, entering, and enrolling judgment, seventy-five cents; for signing and sealing first execution, fifty cents; for signing and sealing each renewal of execution, twenty-five cents; for entering satisfaction on judgment, twenty-five cents; for filing transcript, twenty-five cents; for taking security for costs, entering order therefor, if made, fifty cents; for recording judgments, one dollar and fifty cents; for recording decrees of foreclosure, partition, and reports, per copy sheet of ninety words, nine cents; for administering oath other than on trial of cause, proof of service on Sheriff's return, oath to jurors or by order of Court, fifteen cents each; for taking and filing bonds in attachment, trover, or in other cases, one dollar; for signing and sealing commission to examine witnesses, seventy-five cents; for examin-

Fees and commissions Clerk of Court.

Civ. '02, § 3107. XV., 41, § 3.

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ing each witness *de bene esse*, one dollar; exemplification of proceeding or other office copy, per copy sheet of ninety words, nine cents; recording plat of land under order of the Court, or copying the same, fifty cents; rule of survey, fifty cents; each official certificate under seal of Court not herein specified, fifty cents; issuing writ of attachment for contempt or other special writ, one dollar; signing and sealing writ of *hab. fac. possessionem*, fifty cents; receiving and paying over money officially, two per cent., if under three hundred dollars; if over that sum, two per cent. for the first three hundred dollars, and one per cent. for the balance; on every appeal from Magistrate, all services inclusive except for entering up judgment and issuing execution therein, one dollar; on bill *nol. pros.*, before giving out, one dollar; on bill thrown out by grand jury or found and *pros.*, abated, discontinued, or struck off, two dollars; on bill found and verdict by petit jury, three dollars; all orders for bastardy and taking recognizance, one dollar; issuing bench warrant, writ of *habeas corpus*, *scire facias* and each execution in sessions, one dollar and fifty cents; for issuing warrants, taking recognizance, or other services in the sessions as Magistrate *ex-officio*, same fees as allowed that officer; for each writ of *venire facias*, including all services incident to summoning juries, two dollars; for preparing and issuing certificates for grand and petit jurors and Constables and furnishing returns to County Commissioners for each term of the Court of Common Pleas and General Sessions, five dollars; for filing petition and signing writ *de lunatico inquirendo*, one dollar; for furnishing advertisements in cases of escheat, exclusive of printer's bill, one dollar; for recording whole proceedings therein, two dollars; for license to an attorney, all services included, five dollars; for filing and entering notice of alien's intention to become a citizen, one dollar; for filing and recording report of a lien, one dollar; for administering oath of intention, one dollar; for filing and entering application to become a citizen and administering oath, two dollars; for giving certificate (over seal of office) of citizenship, one dollar; for taking renunciation of dower or inheritance, two dollars; for every search for a paper found, (not to be charged to the parties or attorneys when for papers in a

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ase pending,) fifteen cents; for every search necessary for certificate that a paper is not to be found in office, twenty-five cents; for swearing a Magistrate or Constable in office, making Constables' bonds, and giving certificates thereof, one dollar; for every probate in writing, twenty-five cents; for signing and sealing *dedimus potestatem*, one dollar; for official certificate to exemplification of record, one dollar; for official certificate, without the seal, twenty-five cents; each day engaged in holding reference, one dollar; for hearing application for discharge of insolvent debtors two dollars; for hearing the same when litigated, four dollars; making up and returning report on reference, but no more than one report in each case, three dollars; deed of conveyance or mortgage, two dollars; for official notice of estray and filing papers, one dollar; for recording and copying deeds or other papers, per copy sheet of ninety words, nine cents; for entering satisfaction on mortgage, twenty-five cents; for recording or copying plats of not more than six corners, one dollar; and for every corner over six, ten cents; for granting charter of incorporation, two dollars; for granting charter to church, one dollar; for enrolling and recording transcripts of judgments from Magistrates' Courts, and issuing executions thereon, one dollar.

(2) If in any County in this State the commissions, costs and fees of any Clerk of the Court of Common Pleas and General Sessions, including such as he may receive in discharging the duties of the late officer of Register of Mesne Conveyance, shall exceed the sum of three thousand dollars, then such officer shall for such year receive only the sum of three thousand dollars for the services required to properly transact the business of his office, and he shall, upon oath, turn over to the Treasurer of such County the excess of such commissions, costs and fees that he may have received over and above said sum of three thousand dollars, to be applied to payment of current County expenses: *Provided, further*, That nothing in this subdivision 2, of this Section, shall affect the Clerk of the Court of the County of Charleston, and the Clerk of the Court of the County of Richland, and the Clerk of the Court of the County of Sumter.

Fees of the clerks of court, over \$3,000 in any year, to be turned over to the County Treasurer; special provisions as to certain Counties.

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Salaries in
lieu of fees in
criminal cases
in certain
Counties.

(3) All fees and costs allowed by law to Clerks of Courts in criminal matters are hereby abolished, and they shall be allowed the following yearly salaries, in lieu and instead of the costs and fees now allowed by law. Said salaries to be paid quarterly upon the order of the Boards of County Commissioners of the respective Counties.

Clerk C. P.
and G. S., fees
of, in Ander-
son County.

Civ. '02, §
3108.

Sec. 3880. In Anderson County the Clerks of Court of Common Pleas and General Sessions shall receive: For signing and sealing summons, thirty-five cents; for filing complaint, fifty cents; for filing each answer, demurrer or rejoinder in demurrer, twenty-five cents; for signing and sealing subpoena writ, twenty-five cents; for docketing cause, one charge only at each term, ten cents; for attending the trial of a cause, whether civil or criminal, and swearing witnesses, fifty cents; for entering verdict or other order for final judgment on minutes of the Court, twenty-five cents; for making assessments on reference, twenty-five cents; for special order for bail, thirty-five cents; for filing and entering on journal every rule or order for arbitration, twenty-five cents; for filing affidavits for continuance when ordered by the Judge, twenty-five cents; for signing, entering and enrolling judgments, fifty cents; for signing and sealing first execution, twenty-five cents; for signing and sealing each renewal of execution, twenty-five cents; for entering satisfaction on judgment, fifteen cents; for taking security for costs, entering order therefor, if made, fifty cents; for recording judgments, one dollar; for recording decrees of foreclosure, partition and reports, per copy sheet of one hundred words, ten cents; for administering oath other than on trial of cause, proof of service on Sheriff's return, oath to jurors or by order of Court, fifteen cents; for taking and filing bonds in attachments, trover or in other cases, seventy-five cents; for signing and sealing commission to examine witnesses, fifty cents; exemplification of proceeding or other office copy, per copy sheet of one hundred words, eight cents; recording plat of land under order of the Court or copying the same, fifty cents; rule of survey, fifty cents; each official certificate under seal of Court not herein specified, twenty-five cents; issuing writ of attachment for contempt or other special writ, one dollar; signing and sealing writ of *hab. fac. possessionem*, fifty cents; receiving and

ying over money officially, two per cent. if under three hundred dollars; if over that sum two per cent. for the first one hundred dollars and one per cent. for the balance; every appeal from Magistrate, all services exclusive, except for entering up judgment and issuing execution therein, twenty-five cents; on bill *nol. pros.* before given out, one dollar; on bill thrown out by grand jury, or found *nol. pros.*, abated, discontinued or struck off, two dollars; on bill found and verdict by petit jury, three dollars; all orders for return and taking recognizance, one dollar; issuing bench warrant, writ of *habeas corpus*, *scire facias*, and each execution in Sessions, one dollar and fifty cents; for issuing warrants, taking recognizance or other services in the Sessions; Magistrate *ex officio*, same fees as allowed that officer; for each writ of *venire facias*, including all services incident to summoning jurors, two dollars; for preparing and issuing certificates for grand and petit jurors and Constables and furnishing returns to County Commissioners for each term of the Court of Common Pleas and General Sessions, five dollars; for filing petition and signing writ *de lunatico inquirendo*, one dollar; for furnishing advertisements in cases of escheat, exclusive of printer's bill, one dollar; for recording whole proceedings therein, two dollars; for license to an attorney, all services included, five dollars; for filing and entering notice of alien's intention to become a citizen, one dollar; for filing and recording report of alien, one dollar; for administering oath of intention, one dollar; for filing and entering application to become a citizen and administering oath, two dollars; for giving certificate (over seal of office) of citizenship, one dollar; for taking renunciation of dower or inheritance, two dollars; for every search for a paper found, (not to be charged to the parties or attorneys when for papers) in a case pending, fifteen cents; for every search necessary for a certificate that a paper is not to be found in office, twenty-five cents for swearing a Magistrate or Constable in office, taking Constables' bonds and giving certificates thereof, one dollar; for every probate in writing, twenty-five cents; for signing and sealing *dedimus potestatem*, seventy-five cents; for official certificate to exemplification of record, seventy-five cents; for official certificates without the seal, twenty-five cents; each day

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engaged in holding reference, one dollar; making up and returning report, but no more than one report in each case. three dollars; deed of conveyance or mortgage, two dollars; for official record of estray and filing papers, one dollar; for recording and copying deeds or other papers, per copy sheet of one hundred words, eight cents; for entering satisfaction on mortgage, fifteen cents; for recording or copying plats of not more than six corners, one dollar; and for every corner over six, ten cents; for granting charter of incorporation, two dollars; for granting charter to church, one dollar.

Edgefield, Saluda and Spartanburg.

Civ. '02, § 8109.

Sec. 3881. The Clerks of the Court of Common Pleas and General Sessions of Edgefield, Saluda and Spartanburg Counties shall receive the following fees: For signing and sealing summons, thirty-five cents; for filing complaint, thirty-five cents; for filing each answer, demurrer or joinder in demurrer, twenty-five cents; for signing and sealing subpoena, thirty cents; for docketing a cause, one charge only, each fifteen cents; for attending the trial of the cause, whether civil or criminal, and swearing witnesses, fifty cents; for entering verdict or other order, twenty-five cents; for final judgment on the minutes of the Court, twenty-five cents; for special order for bail, thirty-five cents; for filing and entering on the journal for every rule or order for arbitration, twenty-five cents; for filing affidavits for continuance when ordered by the Judge, twenty-five cents; for signing, entering and enrolling judgment, fifty cents; for signing and sealing first execution, thirty-five cents; for signing and sealing each renewal of execution, twenty-five cents; for entering satisfaction on judgment, fifteen cents; for filing transcript, twenty-five cents; for taking security for costs, entering order thereof, if made, thirty cents; for recording judgments, one dollar; for recording decrees of foreclosure, partition, and reports, per copy sheet of ninety words, six cents; for administering oath other than on trial of cause, proof of service on Sheriff's return, oath to jurors or by order of Court, ten cents each; for taking and filing bonds in attachments, trover, or in other causes, fifty cents; for signing and sealing commission to examine witnesses, fifty cents; for examining each witness *de bene esse*, fifty cents; exemplification of proceedings or other office copy.

or copy sheet of ninety words, six cents; recording plat of land under order of the Court, or copy same, thirty-five cents; rule of survey, thirty-five cents; each official certificate under seal of Court not herein specified, thirty cents; suing writ of attachment for contempt or other special writ, fifty cents; signing and sealing a writ of *habeas facias possessionem*, thirty cents; receiving and paying over money officially, two per cent. if under three hundred dollars; if over that sum two per cent. for first three hundred dollars and one per cent. for the balance; on every appeal from Magistrate, all services inclusive except for entering up judgment and issuing execution therein, fifty cents; on bill *nol. prossed* before given out, fifty cents; on bill thrown out by grand jury or found and *nol. prossed*, abated, discontinued, or struck off, one dollar; on bill found and verdict by petit jury, one dollar and fifty cents; all orders for bastardy and taking recognizance, one dollar; issuing bench warrant, *habeas corpus*, *scire facias*, and each execution in Sessions, one dollar; for issuing warrants, taking recognizance or other services in the Sessions as Magistrate *ex officio*, same fees as allowed such officers; for each writ *venire facias*, including all services incident to summoning juries, one dollar and fifty cents; for preparing and issuing certificates for grand and petit jurors and Constables and furnishing returns to County Commissioners for each term of the Court of Common Pleas and General Sessions, five dollars; for filing petitions and signing writ *de lunatico enquirendo*, seventy-five cents; for furnishing advertisements in cases of escheat, exclusive of printer's bill, one dollar; for recording whole proceedings, two dollars; for license to an attorney, five dollars; for filing and entering notice of alien's intention to become a citizen, one dollar; for filing and recording report of alien, one dollar; for administering oath of intention, one dollar; for filing and entering application to become a citizen and administering oath, one dollar; for giving certificate (over seal of office) of citizenship, one dollar; for taking renunciation of dower or inheritance, two dollars; for every search for a paper found (not to be charged to the parties or attorney when for papers in a case pending), fifteen cents; for every search necessary for a certificate that a paper is not to be found in office, twenty-

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five cents; for swearing in Magistrates or Constables in office, taking Constable's bond and giving certificates thereof, fifty cents; for every probate in writing, twenty-five cents; for signing and sealing *dedimus potestatem*, seventy-five cents; for official certificate to exemplification of record, fifty cents; for official certificate without the seal, twenty-five cents; each day engaged in holding reference, one dollar; making up and retaining report of reference, but no more than one report in each case, three dollars; for hearing application for discharge of insolvent debtor, two dollars; for hearing same when litigated, four dollars; deed of conveyance or mortgage, one dollar; for official notice of estray and filing papers, one dollar; for recording and copying deeds or other papers, per copy sheet of ninety words, six cents; for entering satisfaction on mortgage, fifteen cents; for recording or copying plats of not more than six corners, fifty cents; and for every corner over six, five cents; for granting charter of incorporation, two dollars; for granting charter to church, twenty-five cents: *Provided, further*, That nothing contained herein or in any other Section relative to the fees and costs of his office shall be construed to require the Clerk of the Court of Common Pleas and General Sessions of Spartanburg County to demand the payment of his costs and fees in advance.

Clerk's fees
in Orangeburg
County.

Civ. '02, §
3110.

Sec. 3882. The Clerk of the Court of Common Pleas and General Sessions for Orangeburg County shall receive: For signing and sealing summons, thirty-five cents; for filing complaint, thirty-five cents; for filing each answer, demurrer or joinder in demurrer, fifteen cents; for signing and sealing subpoena writ, thirty-five cents; for docketing cause, one charge only at each term, ten cents; for attending trial of a cause, whether civil or criminal, and swearing witnesses, thirty-five cents; for entering verdict or other order for final judgment on minutes of Court, fifteen cents; for special order for bail, thirty-five cents; for filing and entering on journal every rule or order for arbitration, twenty cents; for filing affidavit for continuance when ordered by the Judge, fifteen cents; for signing, entering and enrolling judgment, fifty cents; for signing and sealing first execution, thirty-five cents; for signing and sealing each renewal of execution, fifteen cents; for entering satisfaction on

judgment, twenty cents; for filing transcript, fifteen cents; for taking security for costs, entering order therefor, if made, thirty cents; for recording judgment, one dollar; for recording decrees of foreclosure, partition and reports, per copy sheet of ninety words, six cents; for administering oath other than on trial of cause, proof of service on Sheriff's return, oath to jurors or by order of Court, ten cents each; for taking and filing bond in attachment, trover or in other cases, sixty-five cents; for signing and sealing commissions to examine witnesses, fifty cents; for examining each witness *de bene esse*, sixty-five cents; exemplification of proceedings or other office copy, per copy sheet of ninety words, six cents; recording plat of land under order of Court, or copying same, thirty-five cents; rule of survey, thirty cents; each official certificate under seal of Court not herein specified, thirty-five cents; issuing writ of attachment for contempt, or other special writ, sixty-five cents; signing and sealing writ of *habeas facias possessionem*, thirty-five cents; receiving and paying over money officially, one per cent.; on every appeal from Magistrates, all services inclusive, except for entering up judgment and issuing execution therein, sixty-five cents; in bill *nol. pros.* before giving out, sixty-five cents; on bill thrown out by grand jury, or found and *nol. pros.*, abated, discontinued or struck off, one dollar and twenty-five cents; on bill found and verdict by petit jury, two dollars; all orders for bastardy recognizance, sixty-five cents; issuing bench warrants, writ of *habeas corpus*, *scire facias*, and each execution in Sessions, one dollar (\$1.00); for issuing warrant, taking recognizance, or other services in the Session as Magistrate *ex officio*, thirty cents (30c.); for each writ of *venire facias*, including all services incident to summoning juries, one dollar and twenty-five cents (\$1.25); for preparing and issuing certificates for grand and petit jurors and Constables, and furnishing returns to County Board of Commissioners for each term of the Court of Common Pleas and General Sessions, three dollars and twenty-five cents (\$3.25); for filing petitions and signing writ *de lunatico inquirendo*, sixty cents (60c.); for furnishing advertisements in cases of escheat, exclusive of printer's bill, sixty-five cents (65c.); for recording whole proceedings therein, one dollar and twenty-five cents (\$1.25);

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for license to attorney, all services included, three dollars (\$3.00); for filing and entering notice of alien's intention to become a citizen, sixty cents (60c.); for filing and recording report of alien, sixty-five cents (65c.); for administering oath of intention, sixty-five cents (65c.); for filing and entering application to become a citizen and administering oath, one dollar (\$1.00); for giving certificates (over seal of office) of citizenship, seventy-five cents (75c.); for taking renunciation of dower or inheritance, fifty cents (50c.); for every search for a paper found, not to be charged to the parties or attorneys when for papers in a case pending, ten cents (10c.); for every search necessary for a certificate that a paper is not to be found in office, fifteen cents (15c.); for swearing a Magistrate or Constable in office, taking Constables' bonds and giving certificates thereof, sixty cents (60c.); for every probate in writing, fifteen cents (15c.); for signing and sealing *dedimus potestatem*, sixty-five cents (65c.); for official certificate to exemplification of record, sixty cents (60c.); for official certificate without the seal, fifteen cents (15c.); each day engaged in holding reference, sixty cents (60c.); making up and returning report on reference, but no more than one report in each case, two dollars (\$2.00); for hearing application for discharge of insolvent debtors, one dollar and twenty-five cents (\$1.25); for hearing the same when litigated, two dollars and twenty-five cents (\$2.25); deed of conveyance and mortgage, one dollar (\$1.00); for official note of estray and filing papers, sixty cents (60c.); for recording and copying deeds or other papers, per copy sheet of ninety words, six cents (6c.); for entering satisfaction on mortgage, ten cents (10c.); for recording or copying plats of not more than six corners, sixty-five cents (65c.); and for every corner over six, six cents (6c.); for granting a charter of incorporation, one dollar (\$1.00); for granting charter to church, fifty cents (50c.).

Fees of Clerk
of Court in
Pickens County.

Civ. '02, §
3111.

Sec. 3883. The Clerk of the Circuit Court for the County of Pickens shall be entitled to the following fees, to wit: For signing and sealing summons, forty cents; for filing complaint, forty cents; for filing each answer, demurrer, or joinder in demurrer, twenty cents; for signing and sealing subpoena writ, forty cents; for docketing a cause, one charge

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ily at each term, twelve cents; for attending the trial of a
 use, whether civil or criminal, and swearing witnesses,
 erty cents; for entering verdict or other order for final
 judgment on the minutes of the Court, twenty cents; for
 special order for bail, forty cents; for filing and entering
 in the Journal every rule or order for arbitration, twenty
 cents; for filing affidavits for continuance when ordered
 by the Judge, twenty cents; for signing, entering and enroll-
 ing judgment, sixty cents; for signing and sealing first
 execution, forty cents; for signing and sealing each renewal
 of execution, twenty cents; for filing transcript, twenty
 cents; for entering satisfaction on judgment, twenty cents;
 for taking security for costs, entering order therefor if
 made, forty cents; for recording judgment, one dollar and
 twenty cents; for recording decrees of foreclosure, partition
 and reports, per copy sheet of ninety words, seven cents; for
 administering oath other than on trial of cause, proof of
 service on Sheriff's return, oath of jurors, or by order of
 Court, twelve cents; for taking and filing bonds in attach-
 ments, trover, or in other cases, eighty cents; for signing
 and sealing commission to examine witnesses, sixty cents;
 for examining each witness *de bene esse*, eighty cents;
 exemplification of proceeding, or other office copy, per copy
 sheet of ninety words, seven cents; recording plat of land
 under order of the Court, or copying the same, forty cents;
 rule of survey, forty cents; each official certificate under
 seal of Court, not herein specified, forty cents; issuing writ
 of attachment for contempt, or other special writ, eighty
 cents; signing and sealing writ of *hab. fac. possessionem*,
 forty cents; receiving and paying over money officially, one
 and one-half of one per cent. if under three hundred dol-
 lars; if over that sum, one and one-half of one per cent. for
 the first three hundred dollars and one per cent. for the
 balance; on every appeal from Magistrate, all services
 inclusive, except for entering up judgments and issuing
 executions therein, eighty cents; on bill *nol. pros.* before
 given out, eighty cents; on bill thrown out by grand jury,
 or found and *nol. pros.*, abated, discontinued, or struck off,
 one dollar and sixty cents; on bill found, and verdict by
 petit jury, two dollars and forty cents; all orders for bas-
 tardy and taking recognizance, eighty cents; issuing bench

Pleadings.
 Preparing for trial. Trial.
 Special orders, &c.
 Judgment and execution.
 Recording.
 Administering oath.
 Bonds.
 Examination of witnesses.
 Copy papers.
 Rule; certificate.
 Writs.
 Commissions on money.
 Appeal from Magistrates.
 Fees in General Sessions.

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In matter of juries.	warrant, writ of <i>habeas corpus</i> , <i>scire facias</i> , and each execution in Sessions, one dollar and twenty cents; for issuing warrants taking recognizance, or other service in the Sessions, as Magistrate <i>ex officio</i> , same fees as allowed that officer; for each writ of <i>venire facias</i> , including all service incident to summoning juries, one dollar and sixty cents;
Writ de lun. inq. Escheat.	for preparing and issuing certificates for grand and petit jurors and Constables, and furnishing returns to County Commissioners for each term of the Court of Common Pleas and General Sessions, four dollars; for filing petition and signing writ <i>de lunatico inquirendo</i> , eighty cents; for furnishing advertisements in cases of escheat, exclusive of printer's bill, eighty cents; for recording whole proceedings therein, one dollar and sixty cents; for license to an attorney, all services included, four dollars; for filing and entering notice of alien's intention to become a citizen, eighty cents; for filing and recording report of alien, eighty cents; for administering oath of intention, eighty cents; for filing and entering application to become a citizen and administering oath, one dollar and sixty cents; for giving certificate (over seal of office) of citizenship, eighty cents; for taking renunciation of dower or inheritance, one dollar and sixty cents; for every search for a paper found (not to be charged to the parties or attorneys when for papers in a case pending), twelve cents; for every search necessary for a certificate that a paper is not to be found in office, twenty cents; for swearing a Magistrate or Constable in office, taking Constables' bonds and giving certificates thereof, eighty cents; for every probate in writing, twenty cents; for signing and sealing <i>dedimus potestatem</i> , eighty cents; for official certificate to exemplification of record, eighty cents; for official certificate without the seal, twenty cents; each day engaged in holding reference, eighty cents; making up and returning report on reference, but no more than one report in each case, two dollars and forty cents; for hearing application for discharge for insolvent debtors, one dollar and sixty cents; for hearing the same when litigated, three dollars and twenty cents; deed of conveyance, or mortgage, one dollar and sixty cents; for recording and copying deeds or other papers, per copy sheet of ninety words, seven cents; for entering satisfaction on a mortgage, twenty cents; for
Licenses.	
Citizenship.	
Renunciation of dower.	
Search.	
Qualification of officers.	
Probates.	
Ded. potest. Certificates.	
Reference and report.	
Insolvent debtors.	
Deeds.	
Fees as Reg- ister of Mesne Conveyances.	

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recording or copying plats of not more than six corners, eighty cents; and for every corner over six, eight cents; for granting charter of incorporation, one dollar and sixty cents; for granting charter to church, eighty cents.

Charters.

Sec. 3884. The fees of the Clerk of the Court of Sumter County shall be as now provided by law, except as follows: For recording real estate mortgages of two thousand words or under, one dollar and fifty cents; for recording like mortgages of more than two thousand words, one dollar and fifty cents for the first two thousand words, and for additional words at the rate of ten cents per one hundred words; for recording deeds of real estate, one dollar, including the Auditor's fee of twenty-five cents; for recording agricultural mortgages of one hundred dollars and over, one dollar; indexing agricultural mortgage under one hundred dollars, thirty cents; recording chattel mortgages over one hundred dollars, fifty cents; indexing chattel of one hundred dollars and less, fifteen cents.

Fees of
Clerk of Court
of Sumter
County.

1909, XXVI,
147. 1910,
XXVI, 714.

Sec. 3885. Referees.—Each Referee shall be entitled to receive for every day occupied in the business of the reference, the sum of three dollars; but the parties may agree in writing upon any other rate of compensation.

Referees.

Civ. '02, §
3112.

Sec. 3886. Masters.—Masters shall be entitled to the following fees: For every day spent in the business of a reference, , three dollars, but the parties may agree in writing on any other rate of compensation; for making and filing each report in a cause, three dollars; swearing and taking testimony of each witness produced, twenty-five cents; he shall be allowed the same commissions for moneys passing through his hands by sales or otherwise, as are now allowed by law to Sheriffs; for each appointment of guardian *ad litem*, two dollars; for making and certifying, upon proper application to him, any order which the Master is authorized to grant, two dollars; for taking, transcribing and filing any bond of guardian, receiver, or trustee, or any other injunction or *ne exeat* bond, three dollars; for examining and auditing accounts of guardians, receivers, or trustees, one dollar; for granting commissions to take testimony of witnesses or answers of absent defendants, one dollar; for every deed or mortgage prepared or executed by him, three dollars; for proceedings on petition for homestead, five dollars.

Fees of
Masters.

Civ. '02, §
3113. 1909,
XXVI, 33.
1910, XXVI,
642.

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Half costs in certain cases.—Bryan v. Reams, 59 S. C., 340; 37 S. E. 2:

Except in Anderson County, where the Master shall receive for every day spent in the business of a reference two dollars and twenty-five cents, but the parties may agree in writing on any other rate of compensation; for making and filing each report in a cause, two dollars and twenty-five cents; swearing and taking testimony of each witness produced, fifteen cents; he shall be allowed the same commissions for moneys passed through his hands, by sale or otherwise, as are now allowed by law to Sheriffs; for each appointment of a guardian *ad litem*, one dollar and fifty cents; for making and certifying, upon proper application to him, any order which the master is authorized to grant, one dollar and fifty cents; for taking, transcribing and filing any bond guardian, receiver, or trustee, or any other injunction or *ne exeat* bond, two dollars and twenty-five cents; for auditing and examining accounts of guardians, receivers, or trustees, seventy-five cents; for granting commissions to take testimony of witnesses or answers of absent defendants, seventy-five cents; for every deed or mortgage prepared or executed by him, two dollars and twenty-five cents: *Provided*, That in Sumter County the Master shall receive one-half of one per cent. on all moneys paid to the parties direct by order of the Court in cases pending before him. and in all sales he shall be entitled to a minimum fee of two dollars for his commissions.

Costs and
fees of Judge
of Probate.

1909, XXVI,
28. 1908,
XXV, 1070,
1113.

Sec. 3887. Except in Marion, Anderson and Orangeburg Counties, the Probate Judge shall receive: For a citation, fifty cents; for qualifying executor, administrator, or guardian, issuing letters to either and recording such letters, two dollars and fifty cents; for taking bond from administrator or guardian and recording same, one dollar; for issuing warrant of appraisement and oath, fifty cents; for proving a will in common form and filing and certifying the same, one dollar; for proving a will in solemn form and filing and certifying the same, five dollars; for recording will, probate and certificate, per copy sheet of ninety words, nine cents; for filing and entering renunciation of executor, fifty cents; for *dedimus potestatem* to prove will or qualify an executor, one dollar; for recording each inventory and appraisement of account of sales, each figure count-

ing for a word, per copy sheet of ninety words, nine cents; for receiving, examining and filing the annual or final accounts of each administrator, executor, or guardian, for first year, three dollars; for each succeeding year, one dollar; for recording said accounts, per copy sheet of ninety words, nine cents; for hearing and filing petition for sale of personal estate and order, one dollar; for hearing and filing petition for guardianship and appointment of guardian or guardian *ad litem*, one dollar; for entering a caveat or withdrawing the same, fifty cents; for hearing every litigated case, three dollars for each day engaged, not to exceed twelve dollars in any one case; for swearing and examining each witness, fifteen cents; for certifying copy of any paper on file in his office, fifty cents; for copying such paper, per copy sheet of ninety words, nine cents; for every rule issued against defaulting witness or party failing to account, two dollars; for every attachment issued on the return of such rule, one dollar; for furnishing and certifying copy of proceedings in case of appeal, three dollars; for every search, fifteen cents; for every certificate not hereinbefore specified, twenty-five cents; for hearing petition to sell real estate in aid of assets and granting order therefor, two dollars; for taking administrator's or executor's bond, in each case, one dollar; for final discharge of executor, administrator, or guardian, two dollars; for proceedings in dower, inclusive of all charges, where the amount is under two hundred dollars, five dollars; when over that amount, ten dollars; for proceedings in lunacy, ten dollars: *Provided*, Where proceedings in lunacy are only had by certificate of physicians, three dollars; for proceedings and services setting off homestead, including titles, five dollars: *Provided*, That in case the amount of estate in the Probate Court does not exceed two hundred and fifty dollars, the cost to be taxed on the case shall not exceed one-half of the amount above allowed; receiving and paying over money officially, two per cent., if under three hundred dollars; if over that sum, two per cent. for the first three hundred dollars, and one per cent. for the balance: *Provided, further*, That the Judge of Probate of Spartanburg and of Cherokee Counties shall not charge or receive more than one-fourth of the fees hereinbefore fixed and allowed

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Fees in Sum-
ter, Darling-
ton and Flor-
ence Counties.

when the value of the personal estate of any deceased person or any infant, lunatic, or other ward or *cestui que trust* in the hands of his personal representative or of his guardian committee or other trustee is more than one hundred dollars and less than two hundred dollars, and when the value of such estate is more than one thousand dollars he may add twenty-five per cent. to said costs and fees: That the Judge of Probate of Spartanburg and of Cherokee Counties, when the value of the personal estate of any deceased person, or any infant, lunatic, or other ward or other *cestui que trust* in the hands of his personal representative or of his guardian, committee, or other trustee, is more than one hundred dollars (\$100.00) and less than two hundred dollars (\$200.00), shall receive or charge not more than five per cent. of the estate, and where said personal estate is less than one hundred dollars (\$100.00) he shall not charge or receive more than ten per cent. of said estate: *And provided further*, That in estates of less than two hundred dollars (\$200.00) no publication for any purpose shall be required to be inserted in any newspaper, but in lieu thereof, notices to be posted at the Court House door, which shall have the same force and effect as if published: *Provided*, That in the Counties of Sumter, Clarendon, Darlington and Florence. Judges of Probate shall receive: For filing every summons, petition, caveat, or other paper, entering same on journal, file-book or calendar and indexing same, fifty cents; for each citation notice issued, fifty cents; for hearing petition and granting order thereon in uncontested cases, one dollar and fifty cents; in contested cases, per day, three dollars; for qualifying executors, administrators, guardians or committees, issuing letters to each and recording same, two dollars and fifty cents; for each bond taken, justification of surety or sureties, and recording same, one dollar and twenty-five cents; for each warrant of appraisement, qualifying the appraisers and recording same, one dollar; for proving each will, or codicil, in common form of law, one dollar; for proving will or codicil in solemn form of law, five dollars; for examining and vouching the annual or final returns of executors, administrators, guardians, trustees or committees for each item vouched, ten cents; for each item not vouched, five cents; for recording wills or

edicts, testimony in contested cases, orders of Court, final and annual returns, inventories, and appraisers (each figure counting as one word), and verifying and certifying same; being correct, per one hundred words, twenty cents; for certified copies of same on appeal or otherwise, including certificate, per one hundred words, twenty cents; for ordinary entries in journal, and other recording not herein provided for, per one hundred words and figures, fifteen cents; for certified copies of same, including certificate, on appeal or otherwise, same price per one hundred words and figures, fifteen cents; for every rule against defaulting witness or party failing to account or otherwise, two dollars; for every attachment or return of rule, \$1.00; enrolling all papers pertaining to an estate, placing same inside of wrapper, numbering same, and placing it on general index of estates and in proper bundle and case, one dollar; on trial of every litigated case in which testimony is taken, stenographer's fees, same as in Master's Court, and fifteen cents for swearing each witness, fifteen cents for final discharge of each executor, administrator, guardian or committee, two dollars; proceedings to sell real estate in aid of assets, and order thereon, five dollars; proceedings in dower, if estate is under two hundred dollars, five dollars; if estate is two hundred dollars or over, ten dollars; proceeding and service in setting off homestead, five dollars; proceedings in lunacy and appointment of committee, ten dollars; proceedings in lunacy under laws governing State Hospital for Insane, ten dollars; receiving and paying over money, if amount is under two hundred dollars, two per centum; if amount is three hundred dollars or over, two per centum; on first three hundred dollars, and one per centum on balance; recording description of devised lands in book provided for that purpose and indexing same for name of each devisee, one dollar; for each plat recorded in this or other books, one dollar for first six corners and fifteen cents for each additional corner; for *dedimus potestatem* to prove will or qualify executor, or administrator, one dollar; for other official services, same as allowed Clerks of Court, Masters or Notaries Public.

Sec. 3888. In Anderson County the Probate Judge shall receive: For a citation, forty cents; for qualifying executor, administrator or guardian, issuing letters to either and record-

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Special provisions fees
Probate Judge
in Anderson
County.

Civ. '02, §
3115.

ing such letters, two dollars; for taking bond from administrator to guardian and recording same, seventy-five cents; for issuing warrant of appraisement and oath, forty cents; for proving a will in common form and filing and certifying the same, seventy-five cents; for proving a will in solemn form and filing and certifying the same, four dollars; for recording will, probate and certificate, per copy sheet of one hundred words, eight cents; for filing and entering renunciation of executor, forty cents; for *dedimus potestatem* to prove will or qualify as executor, seventy-five cents; for recording each inventory and appraisement of account of sales, each figure counting for a word, per copy sheet of one hundred words, eight cents; for receiving, examining and filing the annual or final accounts of each administrator, executor or guardian, for first year, two dollars; for each succeeding year, one dollar; for recording said accounts, per copy sheet of one hundred words, ten cents; for hearing and filing petition for sale of personal estate and order, seventy-five cents; for hearing and filing petition for guardianship and appointment of guardian or guardian *ad litem*, seventy-five cents; for entering a caveat or withdrawing the same, forty cents; for hearing every litigated case, two dollars for each day engaged, not to exceed ten dollars in any one case; for swearing and examining each witness, ten cents; for certifying copy of any paper on file in his office, fifty cents; for copying such paper, per copy sheet of one hundred words, eight cents; for every rule issued against defaulting witness or party failing to account, one dollar; for every attachment issued on the return of such rule, seventy-five cents; for furnishing and certifying copy of proceedings in case of appeal, two dollars; for every such, fifteen cents; for every certificate not hereinbefore specified, twenty-five cents; for hearing petitions to sell real estate in aid of assets and granting order therefor, two dollars; for taking administrator's or executor's bond, in each case, seventy-five cents; for final discharge of executor, administrator or guardian, two dollars; for proceedings in dower, inclusive of all charges, where the amount is under two hundred dollars, five dollars; when over that amount, ten dollars; for proceedings in lunacy, five dollars: *Provided* Where proceedings in lunacy are only had by certificate

physician, three dollars; for proceedings and services setting off homesteads, including titles, five dollars: *Provided*, That in case the amount of estate in the Probate Court does not exceed two hundred and fifty dollars the cost to be taxed on the case shall not exceed one-half of the amount above allowed. Receiving and paying over money officially, two per cent., if under three hundred dollars; if over that sum, two per cent. for the first three hundred dollars, and one per cent. for the balance.

Sec. 3889. In Union County the Probate shall receive: Fees of Judge of Probate for Union County.
 For each citation or necessary copy thereof, fifty cents; for qualifying executor, administrator or guardian, issuing letters to either and recording such letters, two dollars and fifty cents; for receiving and filing petition for administration of guardianship, one dollar and fifty cents; for each order, one dollar, and for recording such order, per copy sheet of ninety words, nine cents; for administering any oath, twenty-five cents; for taking bond of administrator, or guardian, or executor, and recording same, one dollar; for issuing warrant of appraisement and oath, fifty cents; for proving a will in common form, one dollar; for certifying and filing same, fifty cents; for proving a will in solemn form, certifying and filing same, five dollars; for recording will, probate and certificate, per copy sheet of ninety words, nine cents; for filing and entering renunciation of executor, fifty cents; for *dedimus potestatem* to prove a will or qualify an executor, one dollar; for recording each inventory, appraisement or account of sales, each figure counting for a word, per copy sheet of ninety words, nine cents; for receiving, examining and filing the annual account of each executor, administrator, guardian or trustee, for the first and last return, three dollars; for every other year, one dollar and fifty cents; for recording said accounts, per copy sheet of ninety words, nine cents; for hearing and filing petition for sale of personal estate, and order, one dollar; for hearing and filing petition for guardianship or guardian *ad litem*, and order, one dollar; for entering a caveat, or withdrawing the same, fifty cents; for hearing every litigated case, or reference, three dollars for each day so engaged, not to exceed twelve dollars in any one case; for swearing and examining each witness, fifteen cents; for

1908, XXV,
1122.

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certifying copy of any paper on file in his office, fifty cents; for copying such paper, per copy sheet of ninety words, nine cents; for every rule issued against defaulting witness or party failing to account, two dollars; for every attachment issued on the return of such rule, one dollar; for furnishing and certifying copy of proceeding in case of appeal, three dollars; for every search, fifteen cents; for every certificate not hereinbefore specified, twenty-five cents; for hearing petition to sell real estate in aid of assets, and granting order therefor, two dollars; for final discharge of executor, administrator or guardian, three dollars; for proceedings in dower, inclusive of all charges, where the amount is two hundred dollars or less, five dollars; when over that amount, ten dollars; for proceedings in lunacy, ten dollars: *Provided*, Where proceedings in lunacy are only had by certificate of physicians, three dollars; for proceedings and services in setting off homestead, including titles, five dollars: *Provided*, That in case the amount of the estate in the Probate Court does not exceed two hundred and fifty dollars, the cost of said Probate Judge shall not exceed one-half of the amount above allowed; for receiving and paying over money officially, two per cent., if under three hundred dollars; if over that amount two per cent. for the first three hundred dollars one per cent. for the balance: *Provided*, The Judge of Probate of the County of Georgetown shall receive as compensation for his services, in addition to his salary, all fees now allowed by law to be charged by Judges of Probate in this State.

Judge of Probate of Georgetown County allowed certain fees.

Fees Probate Judge in Orangeburg Co.

Civ. '02, § 8116.

Sec. 3890. In Orangeburg County the Probate Judge shall receive: For a citation, forty cents; for qualifying executor, administrator or guardian, issuing letters to either, or recording such letters, one dollar and seventy-five cents; for taking bond from administrator or guardian and recording same, seventy-five cents; for issuing warrants of appraisement and oath, forty cents; for proving a will in common form and filing and certifying the same, seventy-five cents; for proving a will in solemn form and filing and certifying the same, three dollars and fifty cents; for recording will, probate and certificate, per copy sheet of ninety words, seven cents; for filing and entering renunciation of executor, forty cents; for *dedimus postestatem* to

prove will or qualify as executor, seventy-five cents; for recording each inventory and appraisement of account of sales, each figure counting for a word, per copy sheet of ninety words, seven cents; for receiving, examining and filing the annual or final account of each administrator, executor or guardian, for first year, two dollars and twenty-five cents; for each succeeding year, seventy-five cents; for recording said account, per copy sheet of ninety words, seven cents; for hearing and filing petition for sale of personal estate or order, seventy-five cents; for hearing and filing petition for guardianship and appointment of guardian or guardians *ad litem*, seventy-five cents; for entering a caveat or withdrawing the same, thirty-five cents; for hearing every litigated case, two dollars and twenty-five cents for each day engaged, not to exceed ten dollars in any one case; for swearing and examining each witness, thirty-five cents; for certifying copy of any paper on file in his office, thirty-five cents; for copying such paper, per copy sheet of ninety words, seven cents; for every rule issued against defaulting witness or party failing to account, one dollar and fifty cents; for every attachment issued on the return of such rule, seventy-five cents; for furnishing and certifying copy proceedings in case of appeal, two dollars and twenty-five cents; for every search, ten cents; for every certificate not hereinbefore specified, twenty cents; for hearing petition to sell real estate in aid of assets and granting order therefor, one dollar and fifty cents; for taking administrator's or executor's bond, in each case seventy-five cents; for final discharge of executor, administrator or guardian, one dollar and fifty cents; for proceedings in dower, inclusive of all charges, where the amount is under two hundred dollars, three dollars and seventy-five cents; when over that amount, seven dollars and fifty cents; for proceedings in lunacy, seven dollars and fifty cents: *Provided*, Where proceedings in lunacy are only had by certificate of physician, two dollars and twenty-five cents; receiving and paying over money officially, one and one-half per cent., if under three hundred dollars; if over that sum, one and one-half per cent. for first three hundred dollars and one per cent. for balance.

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Additional
fees for Pro-
bate Judge.

In addition to the foregoing fees, the said Probate Judge shall receive: For every day spent in the business of a reference, one and one-half dollars; for making and filing each report in a cause, one and one-half dollars; for moneys passing through his hands, by sale or otherwise, he shall be allowed the same commissions as are now allowed to Sheriff for said County; for each appointment of guardian *ad litem*, one dollar; for making and certifying, upon proper application to him, any order which the Master is authorized to grant, one dollar; for taking, transcribing and filing any bond of guardian, receiver or trustee, or any other injunction or *ne exeat* bonds, one and one-half dollars; for examining and auditing accounts of guardians, receivers or trustees, fifty cents; for granting commissions to take testimony of witnesses or answers of absent defendants, fifty cents; for every deed or mortgage prepared or executed by him, one and one-half dollars.

Fees of Mag-
istrates.

Civ. '02. §
8117. 1907,
XXV, 485.

Sec. 3891. *Magistrates*.—Oath and warrant in criminal case, forty cents; each recognizance, forty cents; taking bond in proceedings for claim and delivery of personal property and in attachment proceedings, fifty cents; each commitment and release, twenty cents; administering and certifying oath in writing, other than above, thirty cents; issuing writ of habeas corpus, to the two Magistrates jointly, one dollar and fifty cents; issuing summons and copy for defendant in civil cases, thirty-five cents; issuing summons for witnesses in any civil case, twenty cents; taking examination of witnesses in writing in any case, as prescribed by law, fifty cents for each witness, not exceeding six in any case, and the fees for taking examination of witnesses shall in no case exceed three dollars; for giving judgment on hearing litigated case, twenty-five cents; for giving judgment in case not defended, twenty cents; for issuing execution or renewal, twenty-five cents; report of case and taking bond to appeal, sixty cents; for making transcript of judgment to Court of Common Pleas, twenty-five cents; issuing attachment returnable to Court or to Magistrate, including all notices, one dollar; filing return or garnishee and order thereon, fifteen cents; proceeding on behalf of landlord or lessor against tenant or lessee, to the two Magistrates, five dollars; proceedings on certifying indenture of apprentice or assign-

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ment, one dollar; for the trial of any criminal case, inclusive of all costs, except for issuing papers, one dollar; for every preliminary examination of any criminal case, fifty cents; proceedings on Coroner's inquest as prescribed by law, eight dollars and fifty cents, except in Orangeburg County, where the Magistrate shall receive only three dollars; proceedings on estray horse or mule, fifty cents; proceedings on all other estrays, each fifteen cents; taking and certifying renunciation of dower, two dollars; granting order for special bail, fifty cents; for qualifying each appraiser in setting off homestead, besides five cents per mile for all travel actually necessary, twenty-five cents; issuing summons for jurors in a criminal case, twenty-one cents.

Sec. 3892. *Sheriffs*.—Except in Anderson County: For ^{Sheriff's fees,} entering every writ, summons, process, execution or other ^{Civ. '02, §} paper in writ or execution book, and making endorsements ^{3118.} thereon, twenty-five cents;

Does not apply to warrants issued by Magistrates.—*Lancaster v. Barnwell Co.*, 40 S. C., 446; 19 S. E., 74.

For serving every writ, summons, notice or rule, not otherwise herein specified, besides mileage, one dollar; mileage from Court House to defendant or witness's residence, or place where found, going and returning each way, per mile, five cents; commitment and release of prisoner, each fifty cents; conveying lunatics to the asylum, two dollars per day and actual necessary expenses: *Provided*, The Sheriff may in extreme cases, call not more than two Constables, and be allowed therefor one dollar per day and actual expenses; issuing each venire for grand jury, fifteen dollars; serving each venire for petit jurors, twenty-five dollars; serving subpoena writ, and mileage on each ticket, fifty cents; serving bench or other warrants *scire facias* from the Court of Sessions, or writ of attachment for contempt, besides mileage, one dollar and fifty cents; search for persons or goods not found and return on the execution of *non est inventus* or *nulla bona*, fifty cents.

Does not apply to process from a Magistrate's Court.—*Green v. Anderson Co.*, 56 S. C., 411; 34 S. E., 691; *Whittle v. Saluda Co.*, 56 S. C., 506; 35 S. E., 203.

Each execution returned to Clerk's office on schedule, twenty-five cents; levying executions or attachments, besides mile-

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age, one dollar; dieting prisoners in jail, per day, thirty cents; executing convict, including all charges and expenses, twenty dollars; bringing up prisoner under *habeas corpus*, to be paid by prisoner if able (if not, by the County), besides mileage and necessary expenses, one dollar; conveying prisoner from one place to another, for every mile, going and returning, besides all necessary expenses, six cents; commissions on all moneys collected by him, if under three hundred dollars, two per cent.; if over that sum, two per cent. for the first three hundred dollars and one per cent. for the balance, and one-half of one per cent. on all sums paid to plaintiff, his agent or attorney, on execution lodged with the Sheriff; execution lodged to bind, with order not to levy, fifty cents; for advertising defendant's property, in addition to printer's bill, one dollar; drawing and executing a deed of conveyance or taking a mortgage, two dollars; drawing and executing each bill of sale, when required by purchaser, two dollars; no Sheriff shall charge more than one bill of sale for property bought at the same sale by the same party; for executing a writ of *habere facias possessionem*, besides mileage, one dollar; transferring money, bonds or other securities for money to party, one-half of one per cent.; for selling land under decree of Court, in lieu of commissions and all other charges, except for advertising, two dollars;

Applies only to cases where the Sheriff acts merely as auctioneer.—*Williams v. McLendon*, 44 S. C., 174; 21 S. E., 616. See also Sec. 867, *ante*.

For serving notice on each set of managers of election, besides mileage, one dollar; summoning freeholders to try suggestions of fraud, five dollars; for every fine paid before levy, fifty cents; for every fine paid after levy and before sale, one dollar; for the service or execution of papers issued by a Magistrate, the Sheriff or his deputy serving or executing the same shall be allowed the same fees as are allowed to Constables:

Allowed one dollar for executing warrant on all witnesses named in it, not one dollar for arrest of each witness.—*Whittle v. Saluda Co.*, *supra*. *Lancaster v. Barnwell County*, *supra*. Where process was executed in several cases on one trip, mileage allowed in each case.—*Green v. Anderson Co.*, 56 S. C., 411; 34 S. E., 691.

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Provided, further, That there shall be paid to the Sheriff of Beaufort County, in addition to his salary, his actual expenses in the transportation of prisoners, and service of process of Court, such expenses to be paid by the County Treasurer on the warrant of the County Supervisor, as are other County expenses.

Sec. 3893. In Anderson County the Sheriff shall receive: Fees and costs of Sheriff in Anderson County.
 For entering every writ, summons, process, execution or other paper in writ or execution book, and making endorsements thereon, twenty-five cents; for serving every writ, summons, notice or rule not otherwise herein specified, besides mileage, one dollar; mileage from Court House to defendant's or witness' residence or place where found, going but not returning, per mile, five cents; commitment and release of prisoner, each fifty cents; issuing each venire for grand jury, fifteen dollars; serving each venire for petit jurors, twenty-five dollars; serving subpoena writ and mileage on each ticket, fifty cents; serving bench or other warrants, *scire facias* from the Court of Sessions, or writ of attachments for contempt, besides mileage, one dollar and fifty cents; search for person or goods not found and return on the execution of *non est inventus* or *nulla bona*, fifty cents; each execution returned to Clerk's office on schedule, twenty-five cents; levying executions or attachments, besides mileage, one dollar; dieting prisoners in jail, per day, thirty-five cents; executing convict, including all charges for burying and other expenses, twenty dollars; bringing up prisoner under *habeas corpus*, to be paid by prisoner, if able (if not, by the County), besides mileage and necessary expenses, one dollar; conveying prisoner from one place to another, for every mile going and returning, besides all necessary expenses, six cents; commissions on all moneys collected by him, if under three hundred dollars, two per cent.; if over that sum, two per cent. for the first three hundred dollars, and one per cent. for the balance, and one-half of one per cent. on all sums paid to plaintiffs as agent or attorney on execution lodged with the Sheriff; execution lodged to bind, with order not to levy, fifty cents; for advertising defendant's property, in addition to printer's bill, one dollar; drawing and executing a deed of conveyance or taking mortgage, two dollars; drawing and executing each bill of

Civ. '02, § 3119.

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sale when required by purchaser, two dollars. No Sheriff shall charge more than one bill of sale for property bought at the same sale by the same party. For executing a writ of *habere facias possessionem*, besides mileage, one dollar; transferring money, bonds or other securities for money to party, one-half of one per cent.; for selling land under decree of Court, in lieu of commissions and all other charges, except for advertising, two dollars; for serving notice on each set of Managers of Elections, besides mileage, one dollar; summoning freeholders to try suggestions of fraud, five dollars; for every fine paid before levy, five cents; for every fine paid after levy and before sale, one dollar.

Constables' fees.

Civ. '02, § 8121.

Sec. 3894. Constables.—Summoning witnesses in a civil or criminal case, twenty-five cents; for summoning freeholders to try question before Magistrate between landlord and tenant, to be paid by unsuccessful party, three dollars; for summoning Coroner's jury and witnesses, to be paid by the County, two dollars; for summoning jury in Magistrate's Court, in civil or criminal cases, twenty cents each; for serving a summons, rule or notice by a Magistrate, in a civil case, fifty cents, five cents a mile going and returning; for serving attachment on persons absconding or about to abscond, and making inventory and return, besides commissions of five per cent. on sale of effects, but no mileage, one dollar; for selling estray, five per cent. on the proceeds; for leying execution, advertising sale and paying over proceeds, besides commissions at five per cent. on amount to be collected, but no mileage, to be paid by the defendant in execution, twenty cents; for every day in search for stolen goods, to be paid by party complaining, one dollar; for serving warrant in any criminal case, upon each person included in said warrant, besides five cents a mile for each mile necessarily traveled, one dollar; for serving warrant for witnesses in any criminal case, upon all the persons included in said warrant, besides five cents a mile for each mile necessarily traveled, one dollar:

Green v. Anderson Co., 56 S. C., 411; 34 S. E., 691; Whittle v. Saluda Co., 56 S. C., 506; 35 S. E., 203; Lancaster v. Barnwell Co., 40 S. C., 446; 19 S. E., 74.

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or conveying prisoners to County jail, five cents per mile going and returning: *Provided*, That the Constables be reimbursed for necessary ferriage.

All Constables, when required by the necessities of the case, in the enforcement of law by service of arrest warrants, or other process, shall be paid all necessary expenses and mileage at the rate of five cents per mile for every mile actually traveled beyond the limits of the County in which said Constables reside.

Mileage of
Constables for
service beyond
limits of
County.

1008, XXV,
1050.

Allowed Sheriff, acting as constable.—*Mullins v. Marion County*, 72 S. C., 44 ; 51 S. E., 535.

Sec. 3895. In Anderson County, Constables shall receive the following fees: Summoning witnesses in a civil case, twenty cents; for summoning freeholders to try questions before Magistrates between landlord and tenant, to be paid by unsuccessful party, three dollars; for summoning Coroner's jury and witnesses, to be paid by the County, two dollars; for serving a summons, rule or notice by a Magistrate in a civil case, no mileage to be allowed, fifty cents; for serving attachment on persons absconding or about to abscond, and making inventory and returns, besides commissions of five per cent. on sales of effects, but no mileage, one dollar; for selling estray, five per cent. on the proceeds; for levying executions, advertising sale and paying over proceeds, besides commissions at five per cent. on amount to be collected, but no mileage, to be paid by the defendant in execution, twenty cents; for every day in search for stolen goods, to be paid by party complaining, one dollar; for serving warrant in any criminal case, besides five cents a mile for each mile necessarily traveled, one dollar; for arrest of witnesses in any case to be tried before a Magistrate, besides mileage, one dollar.

Constables'
fees in Ander-
son County.

Civ. '02, §
3122.

Sec. 3896. Notaries Public.—For taking deposition and swearing witness, per copy sheet, twenty-five cents; for duplicate of deposition, protest and certificate, per copy sheet of one hundred words, ten cents; for each attendance upon any person for proving a matter or thing and certifying the same, fifty cents; for every notarial certificate, with seal, fifty cents; for administering oath on affidavit, twenty-five cents; for taking renunciation of dower or inheritance,

Fees of No-
taries Public.

Civ. '02, §
3123.

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one dollar; for every protest, fifty cents, together with the cost of postage for transmitting notice thereof.

Coroners.

Civ. '02, §
8124.

Sec. 3897. Coroners.—For every inquisition, ten dollars, except in Orangeburg County, where the fee shall be six dollars; the Coroner shall be allowed no other costs or charges except for recording; for recording proceedings in each inquisition in his book, per copy sheet of one hundred words, ten cents; for performing duties of Sheriff, same fees as are allowed Sheriff for like services.

Fees of physicians for
post mortem
examinations.Civ. '02, §
8125.

Sec. 3898. Physicians in this State shall be paid the following fees for post mortem examinations and testifying at Coroners' inquests: For a post mortem examination and testifying, when no dissection is required, five dollars; when dissection is necessary and the body not interred, if requested by the Coroner's jury, ten dollars; for same after interment for three days or more, fifteen dollars; for chemical analysis, a sum not exceeding forty dollars and expenses for such analysis; and when chemical analysis has been made, the chemist who makes it must furnish to the County Board of Commissioners, with his account, a full statement of the analysis. The Clerk of the County Board of Commissioners shall verify and file with the Clerk of Court of General Sessions a copy of such statement of analysis and account.

Claim for,
how proven.

The account of claim for the services herein named shall be certified to by the Coroner, and if dissection is made it shall be certified that it was done at the request of the jury.

Payment of Secs. 794 and 796, *ante*.

Fees of physicians testifying as experts.

1905. XXIV,
912.

Physicians and surgeons bound over or summoned by the State to testify as experts in any case in the Courts of General Sessions, or actually bound over at the instance of the defendant, to testify as experts in any case of felony in the Court of General Sessions, shall receive as compensation therefor, to be paid by the County in which the case is tried, the sum of five dollars in addition to the fees provided by law, to be paid to other witness in such cases: *Provided*, That the Circuit Judge before whom the case is tried shall certify that the testimony of such expert is material.

Sec. 3899. Deputy Surveyors.—For surveying every acre of land, one cent; for making out a fair plat, certifying.

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signing, and returning the same, two dollars and fourteen cents; for running old lines for any person, or between parties, or by order of Court, while they are on the survey, per day, three dollars.

Deputy Surveyors.
Civ. '02, § 3126.

Sec. 3900. County Auditors.—For every entry and endorsement on any deed of conveyance of real property recorded in his office, twenty-five cents.

County Auditors.
Civ. '02, § 3127.

Sec. 3901. Appraisers, &c.—Appraisers to appraise the estate of deceased persons, one dollar per day; appraisers to set out the homestead, two dollars per day; commissioners in dower, or in partition, each one dollar and fifty cents per day.

Appraisers.
Civ. '02, § 3128.

Sec. 3902. If any officer herein named shall charge any other fee or fees for any services herein recited, such officer shall be liable to forfeit ten times the amount as improperly charged, to be recovered by suit in the Court of Common Pleas, or attachment, or by sale, when the penalty does not exceed twenty dollars. In any case in which the Clerk of the Court of Common Pleas, or a Magistrate, shall issue an execution, he shall attach thereto a bill of each item of costs therein charged, and shall, on application of defendant in execution, tax all costs which accrue to the Sheriff for services on such execution.

No other costs or fees allowed.
Civ. '02, § 3129.

Dean v. Todd, 49 S. C., 461; 27 E. E., 471; Tinsley v. Kirby, 8 S. C., 113.

Sec. 3903. Witnesses.—In Courts of Common Pleas and Judge of Probate, one dollar for every day's attendance on summons, besides five cents per mile for coming to Court and returning by the shortest practical route, and ferriage, to be paid by the person or persons at whose suit he is summoned. In Magistrates' Courts in civil cases, fifty cents per day for each day's attendance and the same mileage as is allowed in Circuit Courts.

Witness fees in civil cases.
Civ. '02, § 3130.

Witnesses fees to be taxed as disbursements when paid by party.—Mitchell v. Barrs, 64 S. C., 197; 41 E. E., 962. Subpoena necessary.—Atherton v. A. C. L. Ry., 82 S. C., 474; 64 S. E., 411.

Sec. 3904. No fees or other compensation shall be allowed any witness bound over or summoned to testify in any case in the Court of General Sessions, unless the Circuit Judge who tried the case in which the witness was summoned, shall certify that such witness was material; and in that case

Witness fees in criminal cases.
Civ. '02, § 3131. 1904, XXIV, 407.

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the witness shall be allowed fifty cents; except in Lancaster County, where they shall be allowed one dollar for each day of attendance and five cents per mile, one way, for necessary travel, besides the ferriage they are required to pay in attending the Court; except in Williamsburg County, where he shall be allowed one dollar for each day of attendance and five cents for every mile necessarily traveled in going to and returning from Court; and each witness bound over or summoned in behalf of the State, shall be paid, on approval of the Solicitor of the Circuit in which said County of Williamsburg is situated, and upon such approval shall be paid whether the case in which said witness is bound over or summoned to testify shall be tried or not: *Provided, however,* That in Magistrates' Courts they shall receive no fees or compensation whatever for attendance in criminal cases. In Charleston and Berkeley Counties, they shall be paid fifty cents per day for every day's attendance upon the Court of General Sessions and five cents for every mile necessarily traveled in going and returning from Court: *Provided, further,* That no per diem shall be paid to any witness who is in receipt of a salary or per diem compensation from the State, or any County, town or city thereof; and in no case shall any witness receive more than five cents for every mile necessarily traveled, or more than fifty cents per diem though attending Court or testifying in more cases than one.

Defendant's witnesses are to be paid in cases of felony only.—See Criminal Code.

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